

# THE MADRAS LEGISLATIVE COUNCIL.



Wednesday, the 29th March 1961.

The House met in the Council Chamber, Fort St. George, at half past ten of the clock, Mr. Chairman (THE HON. DR. P. V. CHERIAN) in the Chair.

## I.—QUESTIONS AND ANSWERS.

### STARRED QUESTIONS.

#### *Automatic Cone-Winding Machines*

\* 215 Q.—SRI MOHAMED RAZA KHAN (on behalf of SRI S. K. SAMBANDHAN : Will the Hon. the Minister for Industries be pleased to state—

(a) whether any representation has been received from the women workers in textile mills at Coimbatore about the usage of automatic cone-winding machines; and

(b) if so, the action taken or proposed to be taken thereon?

THE HON. SRI R. VENKATARAMAN : (a) Yes, Sir.

(b) The question of displacement of women workers in textile mills in Coimbatore district due to the introduction of cone-winding machines was discussed at a meeting of the State Labour Advisory Board held on 27th August 1960, and as recommended by the Board, a conference of mill managements and trade unions was convened by the Commissioner of Labour during October 1960, to explore the possibility of arriving at a solution for the problem. At the above conference, it was decided that a committee consisting of both the managements and labour should be formed to examine the question. The Government have authorised the Commissioner of Labour to take further action in the matter and his report is awaited.

In the meantime the Commissioner of Labour has requested the Chairman, Southern India Textile Mill-Owner's Association to advise its member mills to hold in abeyance any proposal for retrenchment of women labour.

SRI G. KRISHNAMOORTHY : Sir, is there any proposal before the Government as to how far we should mechanise and where we should stop in order to avoid displacement of manual labour?

THE HON. SRI R. VENKATARAMAN : We have already settled the principle with regard to that. All rationalisation and mechanisation should be limited to the extent of the absorption of the surplus labour. That is to say, any person, who is rendered surplus on account of mechanisation, should be absorbed either in the same or any of its allied industries. That is called 'rationalisation without tears.'

[29th March 1961]

*Indian Penal Code and the Code of Criminal Procedure (Madras Amendment) Act, 1960*

\* 216 Q.—SRI MOHAMED RAZA KHAN : Will the Hon. the Minister for Industries be pleased to state—

(a) whether the Indian Penal Code and the Code of Criminal Procedure (Madras Amendment) Act, 1960, has been brought into force; and

(b) if so, the number of prosecutions launched till date?

THE HON. SRI R. VENKATARAMAN : (a) Yes.

(b) No prosecution has so far been launched.

SRI MOHAMED RAZA KHAN : Sir, am I to take it that the Government examined the various periodicals published in our State or the periodicals brought into our State for sale by other States or other places, and that they were satisfied that there was no case for prosecution?

THE HON. SRI R. VENKATARAMAN : Not at all, Sir. The Commissioner of Police examines the various periodicals that come into the State. He has recommended one or two cases for prosecution, and they are under examination.

SRI MOHAMED RAZA KHAN : Apart from the Commissioner of Police examining the periodicals, may I know whether the Government *suo motu* or the Ministers, who I am told go through all weeklies, have raised any question that a particular case is fit for launching a prosecution?

THE HON. SRI R. VENKATARAMAN : I do not know whether any Minister does it or has the time to do it. But whenever it is brought to the notice of the Ministers or the Government by the Information and Publicity Department by putting up cuttings and otherwise, then the matter is examined.

SRI MOHAMED RAZA KHAN : May I, with your permission, hand over copies of a weekly to the Hon. Minister and ask him to satisfy himself whether the weekly would come within the scope of the Act? Not only the latest, but also the earlier copies I give.

(Sri Mohamed Raza Khan then handed over copies of "Blitz" to the Hon. the Home Minister.)

SRI K. BALASUBRAMANYA AYYAR : Under the provisions of the Criminal Procedure Code there is also power to seize these pamphlets. Will the Government take any action whenever anything obscene is published?

THE HON. SRI R. VENKATARAMAN : The Government are really very much concerned and disturbed over the increase in this type of publications. But this has got to be examined very carefully, because there may be a suspicion that the Government are trying to stifle freedom of expression and freedom of opinion.



29th March 1961]

Therefore there is a certain amount of reluctance on the part of the Government in taking immediate action without very close examination.

**THE HON. SRI M. BHAKTAVATSALAM :** Apart from that, Sir, I would submit that we cannot take serious notice of every one of these trash journals. We have to ignore them. We should not give them undue publicity. Unless absolutely necessary, the Government are not advised to take action.

**SRI MOHAMED RAZA KHAN :** Sir, whenever the Government bring in a Bill and get it passed, we say that it is very easy to pass a Bill and difficult to enforce the provisions thereof. This is an instance. The Government know the difficulties which are there. But they simply got this Act through the legislature. They feel that it is difficult to take any action now.

**THE HON. SRI M. BHAKTAVATSALAM :** We are getting legislation through this House in order to enable us to take action wherever we feel action is necessary and should be taken.

**DR. A. SREENIVASAN :** Sir, is it a fact that the vernacular weeklies, especially in our State, are on the border land of vulgarity for the sake of circulation? Will the Government consider the possibility of prosecuting them?

**SRI K. BALASUBRAMANYA AYYAR :** Why border? They have reached that stage.

**THE HON. SRI R. VENKATARAMAN :** Sir, I want it to go on record that a class of dailies should not be maligned. To say that vernacular dailies are on the border of vulgarity is too sweeping a statement. Some of them may be so. There are dailies and weeklies in any language—English or Tamil or Telugu or Urdu—which are of this character. When Government do want to take action against them, as the Hon. the Home Minister explained, we cannot take action against every trash and small paper of this kind.

**SRI MOHAMED RAZA KHAN :** The Hon. the Home Minister is in possession of the photos, which I have handed over. Will he himself see through them and then come to a decision?

**MR. CHAIRMAN :** The main question is addressed to the Industries Minister. So, the hon. Member cannot put a supplementary question to the Hon. the Home Minister.

**SRI MOHAMED RAZA KHAN :** Will the Industries Minister jointly with the Home Minister (laughter) examine the photos presented by me and come to a decision whether there is anything objectionable in them and there is a case for launching a prosecution?

**THE HON. SRI R. VENKATARAMAN :** Frankly the Industries Minister has no time to see any of these pictures but certainly will examine whether any literature, or publication or periodical falls

[29th March 1961]

within the purview of the Penal Code. I would also request hon. Members to bring it to the notice of the Government whenever they find that there is violation of the law.

DR. A. SREENIVASAN : Cannot the Publicity Department give a helping hand to the Ministers in these matters?

THE HON. SRI R. VENKATARAMAN : They do. That is what I said before.

### *Match factories*

\* 217 Q.—SRI K. M. RAMASAMY GOUNDER (on behalf of DR. A. CHIDAMBARANATHAN) : Will the Hon. the Minister for Home be pleased to state—

(a) the number of match factories started in the Lower Blavani Pilot Project area during 1959–60; and

(b) whether they have been closed and if so, the reasons therefor?

THE HON. SRI M. BHAKTAVATSALAM : (a) Nil.

(b) Does not arise.

### *Firewood*

10-40  
a.m. \* 218 Q.—SRI T. P. SRINIVASAVARADAN : Will the Hon the Minister for Home be pleased to state—

(a) whether any representation has been received from the firewood merchants of Hamilton Bridge in Mylapore, Madras, about the rise in prices of firewood and charcoal; and

(b) if so, the action taken or proposed to be taken thereon?

THE HON. SRI M. BHAKTAVATSALAM : (a) No, Sir.

(b) Does not arise.

SRI T. P. SRINIVASAVARADAN : Sir, are the Government aware that the price of firewood has risen from Rs. 1-14-0 to Rs. 2-8-0 per gundu after the rains in November, and was it brought to the notice of the Government, though not by the firewood merchants but by others, that on account of the inability of the boatmen to ply boats in the Buckingham Canal the price of firewood has risen to such a high figure?

THE HON. SRI M. BHAKTAVATSALAM : The statistics which the Government have with them do confirm what the hon. Member mentions about the rising price of firewood. Certainly merchants from Park Town—not from Hamilton Bridge—made representations. They made the suggestion that the railway authorities should be addressed to provide more wagons and also that the Buckingham Canal should be repaired. All this is being looked into.



29th March 1961]

**SRI T. P. SRINIVASAVARADAN :** Sir, are the Government aware that the casuarina plantations from Madras to Sadrus are in the hands of a few people, and they control the prices?

**THE HON. SRI M. BHAKTAVATSALAM :** Sir, I would like the hon. Member to make concrete suggestions in this matter. If he would make such suggestions, the Government will have them examined.

**SRI MOHAMED RAZA KHAN :** Sir, is the Hon. Minister aware of the fact that the tendency of the price is, when once it goes up due to abnormal conditions, not to come down but to remain at that high level only?

**THE HON. SRI M. BHAKTAVATSALAM :** That is unfortunately so. Often times I have seen that this is due to the middlemen rather than the retail dealers.

**SRI T. P. SRINIVASAVARADAN :** Are the Government aware that the price of Rs. 2-8-0 per gundu is still higher than the price ruling in November, namely, Rs. 1-14-0? Is there no proposal to bring it down to Rs. 1-14-0?

**THE HON. SRI M. BHAKTAVATSALAM :** We cannot artificially bring it down to Rs. 1-14-0 unless the Government commandeered the entire firewood stock available and bring in wholesale control and take to the course of rationing. But anyhow the Government have been looking into the matter to see what relief they can give to the consumers.

**SRI MOHAMED RAZA KHAN :** Sir, we were hearing a lot about casuarina plantations to be raised by the Forest Department. May I know, Sir, whether they also bring supplies to the City and also whether their supply has a bearing on the ruling prices in the City?

**THE HON. SRI M. BHAKTAVATSALAM :** Yes, Sir. The hon. Member has been hearing a lot about the raising of casuarina plantations. I may tell him that we are planting a lot of casuarina. But still it is hardly adequate to meet the needs of the people. Whenever we take up the question of new plantations, the representatives of the people come to us and say, 'You do not plant here; leave off this place.' That is one handicap which the Government are confronted with.

**SRI T. P. SRINIVASAVARADAN :** Is there any proposal to deepen the Buckingham Canal so that boats may ply?

**THE HON. SRI M. BHAKTAVATSALAM :** I want a separate question.

**DR. A. SREENIVASAN :** Is it possible to produce substitutes for firewood in this State?

**THE HON. SRI M. BHAKTAVATSALAM :** Of course, briquettes will be a substitute. But even when the Neiveli project is completed and production of briquettes starts, I am afraid the grow-

[29th March 1961]

ing demands for fuel cannot be met. There will still be shortage and, therefore, we have to concentrate on planting more and more of fuel species in our forests. There is a programme which has been taken up just now, i.e., farm forestry in Block areas. That is a new programme under the Third Plan under which in each Block area waste lands will be taken up for cultivation of fuel species.

### *Palm jaggery*

\* 219 Q.—VIDWAN T. MUTHUKANNAPPAN (on behalf of DR. A. CHIDAMBARANATHAN): Will the Hon. the Minister for Home be pleased to state—

(a) the targets of production of palm jaggery by the Jaggery Manufacturing Co-operative Societies for 1959-60; and

(b) the quantity of palm jaggery produced during that period?

THE HON. SRI M. BHAKTAVATSALAM: (a) 24.96 lakhs of maunds.

(b) 24.44 lakhs of maunds.

VIDWAN T. MUTHUKANNAPPAN: இந்தக் குறைளிற்குக் காரணம் என்னவென்று அறியலாமா?

THE HON. SRI M. BHAKTAVATSALAM: 24.96-லிருந்து 24.44 ஆகியிருக்கிறது. இதில் குறைவெல்லாம்  $\frac{1}{2}$  மணங்குதான். இதை ஒரு குறைவாகக் கருதக்கூடாது.

### *Health cess*

\* 220 Q.—SRI T. P. SRINIVASAVARADAN: Will the Hon. the Minister for Revenue be pleased to state—

(a) whether the Government have received any communication from the Central Government asking for its views on the question of levy of Health cess;

(b) whether the Government have communicated its views; and

(c) if so, what they are?

THE HON. SRI R. VENKATARAMAN (on behalf of the Hon. the Minister for Revenue): (a) Yes.

(b) Not yet communicated.

(c) Does not arise.

SRI T. P. SRINIVASAVARADAN: May I know what the view of this Government is with regard to the levy of a health cess?

THE HON. SRI R. VENKATARAMAN: That is what exactly has not been communicated and until it is communicated, we cannot give the view of the Government.



29th March 1961]

**SRI T. P. SRINIVASAVARADAN :** What is the purpose of this cess?

**THE HON. SRI R. VENKATARAMAN :** That is to augment the resources of the State for the purpose of expending more on general health schemes. It is in a very early stage of consideration.

**SRI G. KRISHNAMOORTHY :** Do the Government take into account the quantum of tax that an individual has already got to pay before the introduction of this new cess?

**THE HON. SRI R. VENKATARAMAN :** That is one of the reasons why we have not yet communicated our view to the Government of India.

*M.C. Rajah Hostel*

\* 221 Q.—**SRI K. M. RAMASAMY GOUNDER** (on behalf of **DR. A. CHIDAMBARANATHAN**) : Will the Hon. Minister for Works be pleased to state—

(a) the number of boarders in the Government M.C. Rajah Hostel at Madras as on 1st January 1961;

(b) whether all of them are free boarders; and

(c) whether admission to this hostel is restricted to students studying in colleges in the City?

**THE HON. SRI P. KAKKAN :** (a) Ninety-three boarders.

(b) Thirty-seven are free boarders and the remaining 56 boarders, who have been granted Government of India Scholarships for the year 1960-61, are treated as paying boarders.

(c) Yes, Sir.

**VIDWAN T. MUTHUKANNAPPAN :** இதில் ஹரிஜன மாணவர்கள் தான் இருக்கிறார்களா? ஏனைய மிகவும் பிற்பட்ட, பிற்பட்ட, முற்பட்ட சமூகத்தைச் சேர்ந்தவர்களும் இருக்கிறார்களா? இருந்தால் எந்த சத விகிதத்தில் இருக்கிறார்கள்?

**THE HON. SRI P. KAKKAN :** இப்பொழுது இருக்கிற மாணவர்களில் ஹரிஜன மாணவர்கள் 67 பேர்கள், பின் தங்கியவர்கள் 25 பேர்கள், முன்னேற்றமடைந்த சமூகத்தைச் சேர்ந்தவர் ஒருவர் இருக்கிறார். இந்த மாணவர்களுக்கு எல்லாம் மத்திய அரசாங்கம், ராஜ்ய அரசாங்கம் மூலமாகச் சலுகை அளிக்கப்படுகிறது. சிலருக்கு இனமாகவே கிடைக்கிறது.

**SRI MOHAMED RAZA KHAN :** How does the Hon. Minister reconcile this with their policy that students belonging to the Harijan community should not be lodged in separate hostels but with other students in order that they might have a better environment?

**THE HON. SRI P. KAKKAN :** In some of the institutions, Harijan boys are staying with other boys in hostels. Their percentage may be 16 in other hostels.

[29th March 1961]

**SRI G. KRISHNAMOORTHY :** இலவசச் சாப்பாடு போடுவதற்கும் பணம் வாங்கிக் கொண்டு போடுவதற்கும் எந்த விதிப்படி மாணவர்கள் பிரிக்கப்படுகிறார்கள்?

**THE HON. SRI P. KAKKAN :** ஹரிஜன மாணவர்கள் 75 சதவிகிதம் இருக்கவேண்டும். 15 மாணவர்கள் பின் தங்கியவர்களாகவும், 10 பேர் முன்னேற்றம் அடைந்த சமூகத்தைச் சேர்ந்தவர்களாகவும் இருக்கவேண்டும். முன்பு முன்னேற்றமடைந்த சமூகத்தினர் 3-ல் ஒரு பங்கு பணம் கொடுக்கவேண்டுமென்று அரசாங்கம் முடிவு செய்தது. இப்போது அது இல்லாமல் அவர்களும் வந்து ஹரிஜன மாணவர்களோடு இருப்பதற்கு வழி செய்திருக்கிறது.

**DR. A. SREENIVASAN :** இலவச வசதிகள் பின்தங்கியவர்களுக்கு என்று ஏற்பட்டிருக்கிறதா? பாக்கி வகுப்பார்களில் சொத்து இல்லாமல் பலர் இருக்கலாம். அவர்களுக்கும் இது உபயோகப்படுமா?

**THE HON. SRI P. KAKKAN :** அதற்குத்தான் சொன்னேன். அவர்களுக்கும் 10 சதவிகிதம் கொடுக்கிறோம்.

**SRI V. M. SURENDRA RAM :** புது எம். சி. ராஜா ஹாஸ்டல் உபயோகத்திற்கு வரும்போது எவ்வளவு பேருக்கு இடம் கிடைக்கும்?

**THE HON. SRI P. KAKKAN :** எம். சி. ராஜா ஹாஸ்டலில் 111 மாணவர்களைச் சேர்த்துக் கொள்ளவேண்டுமென்று அரசாங்கம் உத்தரவு இட்டிருக்கிறது. ஹரிஜன மாணவர்கள் 97 பேர். புதிதாகக் கட்டப்படும் விடுதி சீக்கிரம் முடிந்தனும். அடுத்த வருஷ ஆரம்பத்தில் எல்லா மாணவர்களும் போவார்கள். 200 பேர் அதில் இருக்கலாம்.

**SRI V. M. SURENDRA RAM :** இப்போது புதிதாகக் கட்டப்படும் விடுதி எவ்வளவு பேருக்குத் தங்க வசதியுள்ளதாகத் திட்டம் போடப்பட்டிருக்கிறது?

**THE HON. SRI P. KAKKAN :** 200-க்கு என்றுதான் போட்டிருக்கிறார்கள்.

#### *Distribution of clothes*

\* 222 Q.—**VIDWAN T. MUTHUKANNAPPAN :** Will the Hon. the Minister for Works be pleased to state—

(a) whether it is a fact that the Harijan Welfare Department have distributed clothes to the Harijan girls in Harijan schools for Pongal, 1961; and

(b) if so, the number of girls in the schools, and the number of girls to whom clothes have been distributed?

**THE HON. SRI P. KAKKAN :** (a) Yes, Sir.

(b) Clothings have been distributed to all the 28,907 Harijan girl pupils reading in the Harijan Welfare Schools including those residing in Government Hostels of the Harijan Welfare Department.



29th March 1961]

**VIDWAN T. MUTHUKANNAPPAN :** இந்த ஹரிஜன நல பள்ளிகளில் ஹரிஜனர் அல்லாத மிகவும் பிற்பட்ட வகுப்பைச் சேர்ந்த குழந்தைகளுக்கூட படிக்கிறார்கள். அவர்களுக்கும் கூட (தக்கவர்களுக்கு) இத்தகைய உடைகள் கொடுக்க அரசாங்கம் யோசிக்குமா?

**THE HON. SRI P. KAKKAN :** ஹரிஜன மாணவிகளுக்கு மட்டும்தான் கொடுக்க அரசாங்கம் முடிவு செய்திருக்கிறது. அங்கத்தினர் சொன்ன ஆலோசனையைப் பரிசீலனை செய்து பார்க்க வேண்டும்.

**SRI G. KRISHNAMOORTHY :** Were the Harijan boys given clothes and, if not, why not?

**THE HON. SRI P. KAKKAN :** ஹரிஜன மாணவர்களுக்கு அல்ல அது. மாணவிகளுக்கு மட்டும்தான்.

**MR. CHAIRMAN :** Questions are over.

[*Note.*—An asterisk (\*) at the commencement of a speech indicates revision by the Member.]

## II.—ANNOUNCEMENTS.

### (1) MESSAGE FROM THE ASSEMBLY.

**MR. CHAIRMAN :** I have received messages from the Deputy Speaker, Legislative Assembly, transmitting copies of the Madras Village Courts (Amendment) Bill, 1961 (L.C. Bill No. 2 of 1961) and the Madras Hindu Religious and Charitable Endowments (Amendment) Bill, 1961 (L.C. Bill No. 3 of 1961), as passed and agreed to by the Assembly without any amendments.

I have also received messages from the Deputy Speaker, Legislative Assembly, transmitting copies of the Madras General Sales Tax (Second Amendment) Bill, 1961 (L.A. Bill No. 15 of 1961) and the Madras (Added Territory) Extension of Laws Bill, 1961 (L.A. Bill No. 16 of 1961), as passed by the Assembly for the recommendations of the Council, certifying that the Bills are Money Bills within the meaning of Article 199 of the Constitution of India.

I have also received message from the Deputy Speaker, Legislative Assembly, transmitting a copy of the Madras Wakf (Supplementary) Bill, 1961 (L.A. Bill No. 10 of 1961), as passed by the Assembly, for the concurrence of the Council.

### (2) MESSAGE FROM THE GOVERNOR.

**MR. CHAIRMAN :** I have received message from the Governor of Madras recommending to the Legislative Council the consideration of the Madras Agricultural Income-tax (Extension to Added Territory) Bill, 1961 (L.A. Bill No. 23 of 1961).

[29th March 1961]

(1) MESSAGE FROM THE ASSEMBLY—*cont.*

MR. CHAIRMAN : I have also received message from the Deputy Speaker, Legislative Assembly, transmitting copies of the Madras Agricultural Income-tax (Extension to Added Territory) Bill, 1961 (L.A. Bill No. 23 of 1961) as passed by the Assembly for the recommendations of the Council and certifying that the Bill is a Money Bill within the meaning of Article 199 of the Constitution of India.

## III.—GOVERNMENT BILLS.

## (1) THE MADRAS WAKF (SUPPLEMENTARY) BILL, 1961 (L.A. BILL NO. 10 OF 1961).

\* THE HON. SRI M. BHAKTAVATSALAM : Mr. Chairman, I move—

‘ That the Madras Wakf (Supplementary) Bill,<sup>a</sup> 1961 (L.A. Bill No. 10 of 1961), as passed by the Legislative Assembly, be taken into consideration.’

This is a simple measure to amend the Wakf Act. The original Act was a Central Act. It was passed in the Parliament in 1954. This subject is in the Concurrent List. The object of the Act is to control and ensure better administration of the Muslim religious endowments. Under the definition in the original Act, Muslim endowments would mean only those endowed by persons of Moham-medan religious persuasion. But there are cases particularly in this State—in the districts of Thanjavur and Tiruchirappalli—wherein Muslim religious endowments have been endowed partly or wholly by Hindu rulers. There were people of other religious persuasions who have endowed for Muslim religious institutions. Hon. Members are also aware that there are also similar cases of Hindu Religious Endowments endowed by the former Muslim rulers. There are also cases during the British regime, where officers of the British Administration in India endowed for the benefit of the Hindu religious institutions, particularly temples. This only shows that people, particularly in the old days, were quite broadminded and they did respect the religious sentiments of others and they did actually support and aid the religious institutions although they might not themselves be interested in the religious worship.

So far as this Wakf Act is concerned there is a difficulty in the application of the Act in this State. We therefore suggested to the Central Government that they might undertake necessary legislation to rectify the difficulty so as to include in the definition Wakfs endowed by persons other than Muslims. But the Government of India suggested that we might ourselves undertake the legislation so far as our State is concerned. Hence this Bill has been brought forward and I hope that this Bill will be accepted by the House.



29th March 1961]

MR. CHAIRMAN: Motion moved—

‘ That the Madras Wakf (Supplementary) Bill, 1961 (L.A. Bill No. 10 of 1961), as passed by the Legislative Assembly, be taken into consideration ’.

SRI K. BALASUBRAMANYA AYYAR: Mr. Chairman, Sir, the object of the Bill is quite commendable and I have nothing to say against it. The Central Act defines a wakf as a permanent dedication by a person professing Islam of any movable or immovable property for any purpose recognised by Muslims as pious, religious or charitable. Now this Bill of ours so far as this State is concerned wants to modify that definition by including all property given or endowed by any person professing any religion other than Islam for the support of Muslim institutions. But so far as I can see the Mohammadan law on the subject does not seem to be quite conclusive. In this connection I would like to refer to what Amir Ali has said in his Tagore Law Lectures. There he had come to the conclusion that a Muslim cannot make a dedication in favour of an idol and a non-Muslim place of worship or any other object which is considered unlawful or sinful according to Muslim law, nor can a non-Muslim validly make a dedication for a Muslim place of worship and so on. He is a great authority on Mohammadan law. Afterwards there was a decision in our High Court which is relevant to our Bill. Justice Wallace in his decision said that it was not uncommon for persons like zamindars and mirasdars and others in estates where there were Hindu and Muslim inhabitants to make endowments of property for the Mohammadan institutions and he would hesitate to declare such endowments invalid merely on the presumption that there could be no exception of any kind to the Mohammadan law that any wakf could be endowed by a Mohammadan. Therefore the general law is that a non-Mohammadan cannot endow property for a Muslim institution. But Justice Wallace said he could not take it as an exception to that rule merely on the presumption and therefore he said he would hesitate to hold those properties as invalid. This is rather not a very definite declaration of the law. He says he would hesitate to hold. That matter went up to the Privy Council and the Privy Council declined to decide the question. So the state of the law in the matter is in this fluid condition.

Then, Sir, the main Act was passed by the Central Government and if any amendments have to be made to the original Act, it should be made by the Central Government after proper enquiry, because, elsewhere there is very strong Muslim feeling in the matter rather than in Madras State. It would have been perfectly all right if they had brought in the amendment. But it is rather unfortunate that the Centre should suggest that we should do it here especially when the Muslim Law on the matter is not very clear. The Privy Council refused to give a decision in the matter and I do not know whether they would decide it now. I have not looked into the latest law. The Government have their law officers to advise them. But so far as I am concerned and my inves-

[Sri K. Balasubramanya Ayyar] [29th March 1961]

tigation goes Mohammadan law as mentioned by the great authority seems to hold that a non-Mohammadan cannot endow property for Muslim institutions.

Therefore the best thing under the circumstances would have been for the Central Government to take up this matter. In the Uttar Pradesh there is a large volume of Muslim opinion about it. We must try always to be very careful in such matters. With regard to the Hindu endowments we can do anything but not so with the Muslim endowments. They are very sensitive. (Sri Mohamed Raza Khan: Not now.) It is a different matter. The hon. Member is a Hindu-Mohammadan. There is no difficulty so far as we are concerned and I am not dissatisfied with that position. I am really happy so far as Madras is concerned. But we do not know the feelings and the opinions of the Muslims there. A Mohammadan cannot make an endowment for idol worship. It is against Muslim law. Hindus have no objection to accept the endowment but so far as the Muslim law is concerned they will not accept any dedication of property by non-Muslims for Muslim institutions. Wakf means dedication of property, tying of property in the name of God for serving the poor. It is a good idea. I do not quarrel with it. It is a good statement. But the difficulty is as was pointed out by me earlier, Amir Ali, a great authority on Mohammadan law and a Member of a judicial committee, says that just as a Mohammadan cannot dedicate property for the purpose of idol worship, similarly non-Muslims cannot dedicate property for Muslim institution. Therefore, so far as the Muslim law is concerned, there will be difficulty if any one wanted to enforce an agreement. It cannot be enforced according to the existing law. I could have given an amendment to the relevant clause but there was some difficulty and want of time also.

SRI T. P. SRINIVASAVARADAN : Did not Muslims endow property to the Hindu institutions?

SRI K. BALASUBRAMANYA AYYAR : I am not concerned with the attitude of particular persons or the merits of individual cases. I heartily accept them. Tippu Sultan gave large grants to Singeri Mutt. To the Chidambaram temple he gave a big emerald which adorns the deity there. I am happy about all that. But what we are now concerned with is the legal aspect of the matter.

SRI T. P. SRINIVASAVARADAN : Why did he violate the Muslim law?

SRI K. BALASUBRAMANYA AYYAR : The hon. Member should ask Tippu Sultan why he violated the Muslim law. What am I to do for it? The statement in the law is that non-Mohammadans cannot dedicate property for Muslim institutions. I am not stating this law. It has been so stated by Amir Ali. He says just as Muslims will never give and ought not to give—according to Muslim law and not according to our British law or our general law—according to the Muslim law, Muslim institutions cannot



29th March 1961] [Sri K. Balasubramanya Ayyar]

also accept dedication of property by non-Mohammadans. He says that on parity his proposition held good. I would suggest therefore to the Government to add : ' notwithstanding anything contained in the Mohammadan law to the contrary ' to the amendment. Then it would be a very good thing and we may leave it to the Central Government to bring in this amendment because this affects a large Muslim population in Northern India. Because somebody says you should pass the law why should you do it? It is a Central Act and the law says that Wakf is a permanent dedication of property by a person professing Muslim law. As soon as the Government start proceedings on account of the misbehaviour of, or expropriation by, any one, somebody will say that the Muslim law is affected, and that it is against the Constitution. Therefore, Sir, for the purpose of effectively administering the Act, I suggest that the Government write to the Central Government and say, ' The best thing under the circumstances is for you to do it '. The definition given of ' wakf ' in Central Act 29 of 1954 is—

11-00  
a.m.

" ' wakf ' means the permanent dedication by a person professing Islam of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes ".

When this is so, and when this is not altered, it is not for us in Madras to bring in this legislation. There is no use of saying that it is a good thing and that proper control is called for. It is a question of Muslim law we are dealing with. Why should we bring in this legislation here instead of the Centre bringing it before Parliament? I understand that so far as the Madras Government are concerned, there is concurrent jurisdiction and they can bring in this Bill. The Centre also has equal powers and it can legislate for Madras. This is a thing which the Madras Government should remember. If the Central Government take up this matter, and the Muslim opinion supports them, then it is all right. It is a different matter altogether. Otherwise if somebody goes there and an agitation starts saying that Muslims are badly dealt with, we will find the situation difficult later on. It is for this Government, if they are satisfied, to write to the Central Government and say ' This is the point of view of the Madras Muslims; so far as the law is concerned, it is very nebulous; we are bound to bring this to your notice '. There is the judgment of Wallace. Wallace used to say, ' I hesitate to declare '. He is a European Judge, and he may not know the whole law. Sir, this Government should have written to the Central Government ' No; please do it yourself '. That is the best thing that they should have done.

\* SRI M. PATANJALI SASTRI : Sir, I do not feel oppressed in the same manner as the Deputy Leader of the Opposition by the rule of the Muslim Law. Sri Balasubramanya Ayyar said that the law seemed to be not very clear on the subject. There is no doubt that the high authority of Amir Ali's Lectures on Mukam-madan law is there. But much water has flowed down the Hooghly

[Sri M. Patanjali Sastri] [29th March 1961]

since he delivered the Tagore Law Lectures. (Sri K. Balasubramanya Ayyar : Much blood also has flowed). The Privy Council has not given a definite pronouncement. But from my experience of the Supreme Court, I can say that if this matter is brought at this stage, I do not think there will be that hesitation which is indicated by Justice Wallace. The Supreme Court is moving with the times. Certainly it will be more in consonance with the spirit of the times to recognise such dedications as valid dedications. The Madras Legislature is competent to deal with this matter which is in the Concurrent List. When this Legislature says that the term ' wakf ' shall include all property given or endowed by any person professing any religion other than Islam for the support of mosques, etc., no rule of Mohamman law can possibly come into conflict. The Deputy Leader of the Opposition suggested the insertion of the words ' Notwithstanding anything contained . . . ' That of course is implied here. Whether it is stated so or not, that is the necessary implication. We say, ' . . . ' shall include all property given or endowed by any person professing any religion other than Islam'. Sir, I do not think that the statement of Amir Ali on Muhammadan law in the Tagore Law Lectures is going to affect very much nor will there be any difficulty about the validity of these dedications.

SRI ABDUL HAMEED KHAN : Sir, I welcome this measure. I am sorry that Sri Balasubramanya Ayyar brought in things which were not germane to the subject before the House. There are certain endowments made by Muslims, and they have to be properly administered. The present Bill seeks to control all endowments by Muslims or non-Muslims. If we do not include the endowments made by non-Muslims in the Act, then there will be no control over them. It is only for the purpose of bringing those endowments under proper administration this Bill is brought forward. To bring in the question of Muslim opinion and Muslim influence is rather unfortunate. The hon. Member thought it fit to speak in the manner that he has done this morning. As pointed out by the hon. Member Sri Patanjali Sastri, I do not think that there is anything which affects the right of this legislature to pass a measure like this. It is only with the consent of the Government of India that this measure is brought in here. In the circumstances, it is very necessary that this measure should be passed by this legislature. I do not think much need be said about this. If I had anything to say, that is because of the speech of the hon. Member Sri Balasubramanya Ayyar. All that he said was beside the point. An able lawyer that he is, he need not have brought in Amir Ali for discussing this measure. (Sri K. Balasubramanya Ayyar : He brought himself in; he wrote not for my purpose.) I have already said that he need not have brought him in. This measure does not need his help. In the circumstances, I request the Government and this House to pass this measure.

SRI MOHAMED RAZA KHAN : Mr. Chairman, Sir, we thought that a measure of this type would be passed within a few minutes. But it has brought out some of the legal talents here.



29th March 1961] [Sri Mohamed Raza Khan]

Before I proceed to discuss the points made by my esteemed friend Sri Balasubramanya Ayyar who wants to see that the legal position is always maintained, I like to say that I do appreciate the steps taken by the Government to bring in this measure. Mr. Abdul Hameed Khan thinks that this subject comes within the concurrent list. Sir, even if we take the Hindu Religious Endowments Act into consideration, we see that it differs from place to place. In fact the Central Government are examining the Madras Act so that it can be copied by other States. No doubt for a long time the Muslims desired and felt the necessity for an Act like this. There were also attempts in regard to this matter, but unfortunately those attempts were based more on political factors than on the realities of the situation. This Act, which comes under the concurrent list, was passed in a hurried way in the year 1952-53, when the Leader of the House Mr. Venkataraman was a member of Parliament. (The Hon. Sri R. Venkataraman: I was not there then.) If he was there, possibly he might have devoted some attention to this legislation. The first thing that I would like to say is this. The Hon. Minister ought to have told this House as to how this particular amending Bill originated. Was it on his own initiative or on the representation made by the Centre or by the Madras Wakf Board that there were certain endowments by Hindu gentlemen and that they should be brought within the operation of the Act? This information also could be given to us as to how many endowments there are and what their income is. Before proceeding to say a word on the points raised by Sri Balasubramanya Ayyar, I think it would be much better particularly for the Home Minister, who is an authority on Hindu Religious Endowments with all his experience of running the Hindu Religious Endowments, to have the entire thing amended to suit local conditions. There are so many defects and lacunae in the Act. It is known that one section is clashing with another, and sometimes even the rights are taken away. Let me stretch my argument further. It is stated that only one member out of ten or eleven on the Board should be a man connected with the trust. I do not see any logic in this provision. Why do you suspect people whose forefathers have endowed all that they had for religious purposes? Why do you exclude them from the Board by saying that they will have only one seat on the Board? I do not understand the logic or the justification for this provision. Again, Sir, I can understand a provision which says that one of the members shall be a member of the legal profession or a man with wide experience or a member of the Legislature and so on. But what is this provision, that there should be a man representing a political party--the Jamiat-ul-Ulema? They are camp followers of the party in power. I do not think we can bring in a party here. Then, Sir, there is too much power in the hands of the Government. We know how the Government decide, for example, the composition of the Board. Whomsoever they want, they can have on the Board. They may choose X, Y or Z and say, 'this is our list' and we have to accept it. There is no provision to include men who could help and who possess a representative capacity. Apart from

[Sri Mohamed Raza Khan] [29th March 1961]

this, what happens when the political party which is supposed to have one representative on the Board ceases to exist? Suppose a man from a particular sect says that it ceases to exist. What happens? I do strongly feel that the Government, if time permits, should either this year or next year see that the Act is amended suitably. Mr. Balasubramanya Ayyar's point was rightly met by Mr. Patanjali Sastri. I am not a lawyer to pronounce an opinion on the Amir Ali statement. We do not know under what circumstances the opinion was pronounced. We do not know either whether the case came about on account of any Hindu objecting to endowment for Muslims or Muslim objecting to endowments by Hindus. Mr. Sastri rightly said that we need not be bothered about others' opinion and that the will of the Legislature was always there. If there was anything wrong, hundreds of Hindus and hundreds of Muslims would have gone to courts but nobody has done it. We take some pride and it is very much proclaimed in the north, though not very much in the south, that Tippu Sultan endowed so much money for Hindu temples. Whether Mr. Balasubramanya Ayyar agrees or not, we are not expected to encourage idol worship. Various Muslims may say, 'We will give money but we will not say for what purpose'. If they stated the purpose openly, then many people would have gone to courts. The Home Minister refers with immense pride to what Tippu Sultan has done. I do not know whether he referred to him for the sake of arguing his case. But anyway, people may remember the good things which he has done and I support the measure in the hope that the Government would bring in an amending Bill very soon.

SRI ABDUL HAMEED KHAN : With regard to . . .

MR. CHAIRMAN : The hon. Member cannot make a second speech.

SRI ABDUL HAMEED KHAN : I am not making a second speech. I want Mr. Raza Khan to withdraw his remarks about that religious body, Jamiat-ul-Ulema. They are not camp followers of any party.

SRI MOHAMED RAZA KHAN : They are.

THE HON. SRI R. VENKATARAMAN : There is a difference of opinion. Let both opinions go on record. (Laughter.)

SRI MOHAMED RAZA KHAN : With your permission, may I answer Mr. Hameed Khan? A little while ago it was a case between me and Mr. Balasubramanya Ayyar. Now it has turned to be one between me and Mr. Hameed Khan. It is a body of individuals taking part in politics. Everybody cannot become Moulvi. Whatever Mr. Hameed Khan may say, I am sorry, I have to stand by my statement. I am not going to withdraw my remarks.



29th March 1961]

THE HON. SRI M. BHAKTAVATSALAM: Sir, it has also been my view that the Government of India should have undertaken this piece of legislation. We did suggest that to the Government of India but they suggested back to us that we ourselves might undertake it. That is why I am before the House with this Bill.

While considering this, I would humbly submit that what is the Mohammaden law on the subject is not relevant; nor are what eminent men like Amir Ali have said and the decisions of the High Court or the Privy Council. These are not relevant matters for our purpose. The institutions are already there and the question is whether they should be administered better and whether there should be a machinery for such better administration. I said, there were many institutions in Tanjore and Tiruchirappalli districts. There is the famous Darga in Nagoor and ninety per cent of the worshippers are Hindus. Several people go there and offer worship. I would say it is purely a Muslim institution. It is cent per cent a Muslim institution. Only there is sufferance on the part of Muslims when they allow such worship. Just as Hindus go there, Muslims worship at Palni and they are not prevented. Still, these institutions are cent per cent Muslim institutions even though Hindus worship there. If they are not properly administered, then it is but necessary that Government should arrange for their proper administration. And that cannot be done under the present Wakf Act. There is this big Orphanage on the Mount Road, the Anjuman. It is a big trust and it runs a very good orphanage. The late Sir Mahomed Usman was strongly protesting to me in this House so many times that a completely Muslim Board should not take over the administration of this institution because there were several Hindus who had made contributions to that institution. He considered it illegal and improper to entrust its administration to the Board. He said: 'You cannot touch it'. So, that means that if the interpretation of the Mohammadan law is to be strictly applied to the control of these institutions, you will have to leave them to the charge of those who for the present are in charge of the institutions to manage them as they please. There can be no remedy even if there is maladministration. That would be the result if we accept that position.

11-20  
a.m.

However, Sir, there was a conference, a two days' conference in Delhi three or four months back presided over by the Central Minister in charge of the subject. I also attended the conference. Several Ministers from the other States and representatives attended the conference. Several learned, religious minded, pious Moulvis too attended the conference. In that conference I pointed out this particular difficulty: They did not demur and say that we should not bring them under the Wakf Act. The only thing was, the Government of India said that we might ourselves undertake this amending legislation.

Then, Sir, about the difficulties pointed out by the hon. Member Sri Mohamed Raza Ghan, some of these difficulties were also discussed in that conference and the Government of India Ministry

[Sri M. Bhaktavatsalam] [29th March 1961]

concerned did take note of these and said they would consider what amendments should be brought forward in the Lok Sabha. Therefore we should leave those things to the Lok Sabha. We need not take them up here. This particular legislation we took up because the Government of India would not do it. We felt the need for it. They suggested we might ourselves do it. Therefore we took up this amendment. The other things we must leave to the Government of India. We cannot afford to bring in comprehensive amendments to the original Act.

Regarding the administrative machinery that we are to have for the administration of Wakfs, so far as this State is concerned, it will be a Board consisting exclusively of Muslims, no doubt of pious Muslims. No Hindu will be there. Even when we had to appoint a special officer to undertake service, we appointed only a Muslim in consultation with the Wakf Board. Ever since the State Board started functioning I do not remember there was any occasion for the Government to interfere with the administration except that we offered them some help. They could not start their work without any funds. They had no funds to start with. We offered a loan of Rs. 1 lakh and we paid them Rs. 50,000. This was a revelation when I mentioned it at the Delhi Conference. The other States' Muslim representatives said that it was revelation for them that the Government was good enough to offer this aid in order to enable the Wakf Board in Madras State to start functioning effectively. Therefore we are not interested in interfering with the administration. It is for the Wakf Board to administer. If there is maladministration of funds they will take necessary action in the matter. Whenever they seek the aid of the Government, Government would offer aid. Otherwise Government would not interfere with the administration of the Board or the Wakfs. Therefore I do not think there will be any difficulty in this House accepting this amending Bill which is very simple.

MR. CHAIRMAN : The question is—

'That the Madras Wakf (Supplementary) Bill, 1961 (L.A. Bill No. 10 of 1961), as passed by the Legislative Assembly, be taken into consideration.'

The motion was put and carried and the Bill was taken into consideration.

Clauses 2 to 4 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI M. BHAKTAVATSALAM : Mr. Chairman, Sir,  
I move—

'That the Madras Wakf (Supplementary) Bill, 1961 (L.A. Bill No. 10 of 1961), as passed by the Legislative Assembly, be passed.'



29th March 1961]

MR. CHAIRMAN : The question is—

That the Madras Wakf (Supplementary) Bill, 1961 (L.A. Bill No. 10 of 1961), as passed by the Legislative Assembly, be passed.

The motion was put and carried and the Bill was passed.

(2) THE MADRAS AGRICULTURAL INCOME-TAX (AMENDMENT) BILL, 1961  
(L.A. BILL NO. 12 OF 1961).

\* THE HON. SRI M. A. MANICKAVELU : Mr. Chairman, Sir, I move—

That the Madras Agricultural Income-tax (Amendment) Bill, 1961 (L.A. Bill No. 12 of 1961), as passed by the Legislative Assembly, be taken into consideration.

In the Madras Plantations Agricultural Income-tax Amendment Act, 1958, a special provision was made to collect tax for the assessment year 1958-59 applying the composition formula. The above provision was extended for the assessment years 1959-60 and 1960-61 to enable the assessee who would not have maintained proper accounts for the accounting years 1958-59 and 1959-60 to apply for composition. As it is considered that the assessee would not have maintained proper accounts for the accounting year 1960-61 also, it is proposed to extend the benefit of section 34 in respect of the assessment year 1961-62 also by suitably amending that section. The Bill accordingly provides for the application of composition formula to the assessment year 1961-62 also. This is only an extension of the formula for another year, namely, 1961-62. I hope the House will accept it.

MR. CHAIRMAN : Motion moved :

That the Madras Agricultural Income-tax (Amendment) Bill, 1961 (L.A. Bill No. 12 of 1961), as passed by the Legislative Assembly, be taken into consideration.

SRI K. BALASUBRAMANYA AYYAR : The Government are extending this provision every year. They extended it for two years and now they want to extend it for another year. They would want to extend it for the next year, that is, 1962-63 and thus go on extending year after year.

THE HON. SRI M. A. MANICKAVELU : Not likely for the reasons that I am going to state just now.

SRI K. BALASUBRAMANYA AYYAR : That is what I wanted to know. Every year it has been extended. I hope it would be better to make it a permanent provision.

THE HON. SRI M. A. MANICKAVELU : It will come along with the Land Ceiling Bill.

SRI K. BALASUBRAMANYA AYYAR : Then there will be no question of agricultural income-tax. That seems to be the idea of the Government. It is all right. I hope this will be the last time that the provision is to be extended for another year.

[29th March 1961]

THE HON. SRI M. A. MANICKAVELU : Yes, I think there may not be any necessity to come again before this House for extension of this provision because there may not be necessity for this very Act.

Mr. CHAIRMAN : The question is—

‘ That the Madras Agricultural Income-tax (Amendment) Bill, 1961 (L.A. Bill No. 12 of 1961), as passed by the Legislative Assembly, be taken into consideration ’.

The motion was put and carried and the Bill was taken into consideration.

Clause 2 was put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI M. A. MANICKAVELU : Mr. Chairman, Sir, I move—

‘ That the Madras Agricultural Income-tax (Amendment) Bill, 1961 (L.A. Bill No. 12 of 1961), as passed by the Legislative Assembly, be passed ’.

Mr. CHAIRMAN : The question is—

‘ That the Madras Agricultural Income-tax (Amendment) Bill, 1961 (L.A. Bill No. 12 of 1961), as passed by the Legislative Assembly, be passed ’.

The motion was put and carried and the Bill was passed.

(3) THE MADRAS GENERAL SALES TAX (SECOND AMENDMENT) BILL, 1961  
(L.A. BILL NO. 15 OF 1961).

\* THE HON. SRI R. VENKATARAMAN : Mr. Chairman, Sir, I move—

‘ That the Madras General Sales Tax (Second Amendment) Bill, 1961 (L.A. Bill No. 15 of 1961), as passed by the Legislative Assembly, be taken into consideration ’.

Sir, this contains the concessions made by the Hon. the Finance Minister with regard to the facility of compounding up to Rs. 50,000 and the occasion has been taken advantage of to bring the various recommendations made by the Committee on Subordinate Legislation into effect. I shall briefly explain the scope of the clauses of the Bill.

The term “ Assistant Commercial Tax Officer ” occurs in section 54 of the Madras General Sales Tax Act, 1959. The term is defined only in rule 3 (b) of the Madras General Sales Tax Rules, 1959. The Committee on Subordinate Legislation which examined the rules, recommended that the term should be defined in the Act itself. Sub-clause (i) of clause 2 of the Bill gives effect to this recommendation.



29th March 1961] [Sri R. Venkataraman]

The expression "casual trader" as now defined in clause (e) of section 2 of the principal Act includes even petty dealers who are residing in the State and who may carry goods in headloads for casual sales in shandies. This has resulted in hardship to such dealers as casual traders have to register themselves under the Act and pay tax irrespective of the quantum of their turnover. The intention of the Government is not to tax such dealers. Casual dealers from the adjoining States bring their goods to the fairs, festivals and exhibitions in this State. Some others bring goods in motor vans, etc., to this State, sell them and go away to their States. They may be standing dealers in other States. But they escape assessment to tax on their sales in this State. To check the evasions of this kind, Dr. P. S. Lokanathan who examined the sales tax system in this State, recommended that such dealers should be registered and taxed without any limit of turnover. The Government accepted the recommendation of Dr. Lokanathan. The intention of the Government was thus to tax only the non-resident dealers who adopt "sell and run" tactics within the State. In the circumstances the Government propose to amend clause (e) of section 2 of the Act suitably. Sub-clause (ii) of clause 2 of the Bill contains the provision in this regard.

The concession of compounding sales tax is at present available to dealers having a total turnover between Rs. 10,000 and Rs. 25,000 in a year. The Government have decided to extend this concession to dealers having total turnover between Rs. 25,000 and Rs. 50,000 in a year. Clause 3 of the Bill provides for the amendment of section 7 of the Act to give effect to this decision. The existing slabs of Rs. 5,000 and the rate of tax of Rs. 60 for each slab of Rs. 5,000 in the case of dealers with a turnover not exceeding Rs. 25,000 have been adopted also for dealers with turnover between Rs. 25,000 and Rs. 50,000.

Rule 11 of the Madras General Sales Tax Rules, 1959, enables the assessing authority to make provisional assessment to the best of its judgment if no return is submitted by the dealer or if the return submitted by him is incomplete or incorrect. The Committee on Subordinate Legislation has observed that this rule is *ultra vires* as section 13 (2) of the principal Act provides for the making of provisional assessment based on the preceding year's turnover only.

11-30  
a.m.

The provisions for the issue of copies of the registration certificates for exhibition by a dealer at each of his place of business, the issue of duplicate of a registration certificate when the original is lost or accidentally destroyed and the levy of fees for the copies and duplicates of registration certificates are now contained in rule 24 of the Madras General Sales Tax Rules, 1959. The Committee on Subordinate Legislation has pointed out that these are not in order as there is no provision in the principal Act for these matters. It is therefore proposed to incorporate in the principal Act itself the provision of rule 11 and the provisions relating to the

[Sri R. Venkataraman] [29th March 1961]

issue of copies and duplicates of registration certificates and the fees to be levied therefor. The opportunity is taken also to rectify an error in sub-section (4) of section 21 of the principal Act. Clauses 4 and 5 of the Bill contain the provisions for these purposes.

There is no provision in the principal Act for the issue of duplicate of a permit when the original is lost or accidentally destroyed. The provisions in this regard are contained in the rules. In view of the observations of the Committee on Subordinate Legislation it is proposed to make necessary provision in the Act itself for the issue of duplicate of a permit when the original is lost or accidentally destroyed. Clause 6 of the Bill contains the necessary provisions in this regard.

Clause 7 of the Bill provides for the addition of the words "having jurisdiction" at the end of the opening paragraph of section 31 of the principal Act so as to indicate clearly the Appellate Assistant Commissioner to whom an appeal should be filed.

Sometimes it is necessary to transfer an appeal filed before an Appellate Assistant Commissioner to a different Appellate Assistant Commissioner. The power for such transfer is now exercised by the Board of Revenue under the provisions of rule 27 (5) of the Madras General Sales Tax Rules, 1959. The Committee on Subordinate Legislation has observed that this rule is *ultra vires* of the Act. As such a power is necessary, provision is proposed to be made in this regard in the principal Act itself. Clause 8 of the Bill accordingly seeks to insert a new section in the principal Act empowering the Board of Revenue to transfer appeals from one Appellate Assistant Commissioner to another, and to stay further proceedings before an Appellate Assistant Commissioner while it is considering the question of such transfer. This clause also provides for the affected party being heard if an order of such transfer would adversely affect him.

Under section 38 (1) of the Madras General Sales Tax Act, 1959, a revision petition can be filed in the High Court only in a case where the total turnover as determined by the Appellate Tribunal is Rs. 50,000 or over. There have been instances where the total turnover as determined by the assessing authority far above Rs. 50,000 was reduced by the Appellate Tribunal far below that amount. Important questions of law may arise even in a case where the total turnover is below Rs. 50,000. In order to enable any aggrieved party including the Government to prefer revision petitions to the High Court against any decision of the Appellate Tribunal, the Government propose to remove the monetary limit of Rs. 50,000. Clauses 9 and 10 of the Bill contain the amendments to the principal Act to give effect to this proposal.

Section 41 (4) of the Principal Act provides for confiscation of goods not accounted for by the dealer in his accounts, registers, records and other documents maintained by him. Section 42 (3) provides for confiscation of goods not covered by bill of sale or



29th March 1961] [Sri R. Venkataraman]

delivery note, log book, trip sheet or goods vehicles record and any other prescribed documents. There is no provision in the Act for the levy of any penal amount and the tax due in lieu of confiscation. Provision in this regard has been made in rule 37 of the Madras General Sales Tax Rules, 1959. The Committee on Subordinate Legislation has observed that rule 37 is *ultra vires* as there is no power in the principal Act for the exercise of such power by the officer adjudging confiscation. It is therefore proposed to incorporate the provisions of rule 37 in the principal Act, by amending sections 41 and 42 of the Act. Clauses 11 and 12 of the Bill contain the provisions in this regard.

The Committee on Subordinate Legislation has recommended for adoption in Bills a model clause relating to the placing of rules on the table of Legislature. Clause 13 of the Bill seeks to incorporate the model clause in section 53 of the principal Act.

Clause 14 provides for the correction of a mistake in item 38 of the First Schedule to the principal Act.

I request that the Bill be taken into consideration.

MR. CHAIRMAN : Motion moved—

‘That the Madras General Sales Tax (Second Amendment) Bill, 1961 (L.A. Bill No. 15 of 1961), as passed by the Legislative Assembly, be taken into consideration’.

SRI K. BALASUBRAMANYA AYYAR : Sir, I welcome some of the important amendments brought before the House, especially the one relating to the raising of the turnover limit to Rs. 50,000 for purposes of composition. I think this was suggested even at the Joint Select Committee stage. We said that the limit for composition could be raised to Rs. 50,000. But then the Minister said that he would wait for some time, have experience, and then if necessary do it. I am glad that he has now come forward after experience to increase the turnover limit from Rs. 25,000 to Rs. 50,000. But the rates of tax could be a little less. So far as the first three slabs are concerned, namely, Rs. 120, Rs. 180 and Rs. 240, they have already been mentioned. As far as the definition of ‘casual trader’ is concerned, the object is not to tax the people who are petty dealers within the State. I do not know whether by the addition of the words ‘not reside within the State’, we will be able to effectively administer the Act. This is the doubt I have. Casual trader is defined as follows :—

“ ‘Casual trader’ means a person who has, whether as principal, agent, or in any other capacity, occasional transactions of a business nature involving the buying, selling, supply or distribution of goods in the State, whether for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, and who does not reside or has no fixed place of business within the State.”

[Sri K. Balasubramanya Ayyar] [29th March 1961]

Suppose a dealer comes and distributes goods to the retail dealers and runs away. What is the position in regard to the collection of the tax? That is the doubt I have. He may escape and the petty dealers may be taxed. We must try to avoid this also. The tax should not be on the retail dealers who, on account of the other man's action, are liable to tax. This question also the Government should take into consideration. It is all right so far as the other man is concerned, because it is only for a casual transaction he comes here.

So far as the rule-making powers are concerned, we said at the Joint Select Committee stage that the High Court might not be unnecessarily bothered by small petitions. But questions of law may arise in even very small matters. Sometimes we have to argue questions of law for two or three days. Therefore questions of law do arise whatever may be the subject-matter. Therefore it is a very wholesome provision to remove the monetary limit. The sooner it is brought in the better it will be for all.

Probably the Subordinate Legislation Committee agreed with the status of the Assistant Commercial Tax Officers. I suppose they are not entitled to go into the nature of the thing. They said that it was not within the rule-making powers of the Government to define the term 'Assistant Commercial Tax Officer'. Now the Government are going to make the relevant rules part of the Act itself.

This is all I have got to say, Sir.

\* SRI M. SESHACHARIAR : Sir, as the hon. Member Sri Balasubramanya Ayyar has said, this is of course a salutary piece of legislation so far as the assesseees are concerned. Up to the turnover limit of Rs. 25,000 they were in a position to pay the compounded tax. Now the limit is increased to Rs. 50,000. No doubt they did not have any aggrieved person at any time so far in the matter of putting in revision petitions in cases where the turnover amount was less than Rs. 50,000. Now irrespective of the turnover limit, he can file a petition. The turnover limit is removed. The other point is in regard to the suggestion made by the Subordinate Legislation Committee. The Committee has said that the rules relating to the levy of a fee of Rs. 5 for each copy of the registration certificate are *ultra vires*. If a person wants to have his business in four or five places, he has to get copies of the registration certificate and hang them in all those places. We are now providing for this in the Act itself. I do not know whether this is absolutely necessary. But the Subordinate Legislation Committee appears to have said that it is so. They think that there is no provision in the Act and that, therefore, the Government will not have that right. Then, the other thing is, there was a provision in the Act to the effect that if a return was not submitted or if the return submitted was not believed by the authorities concerned, they could base the levy for that year on the tax paid during the previous year. The



29th March 1961] [Sri M. Seshachariar]

Committee on Subordinate Legislation felt that a provision to the effect that the assessment in such cases should be based on 'best of judgment' as mentioned in the rules should be made in the Act itself. Such a provision exists in the Income-tax Act. This is now made in the Act itself and is welcome and useful, because assessment based on previous year's tax would not be correct. 'To assess the dealer to the best of its judgment' is, I think, all right.

SRI MOHAMED RAZA KHAN : Mr. Chairman, I have got one or two doubts which I think the Hon. Minister in charge of the Bill will try to clarify. The most important provision of the Bill is the raising of the turnover limit to Rs. 50,000 for the purpose of composition. The tax will be compounded to Rs. 540 if a dealer has had a turnover of fifty thousand rupees. I do not want to deal with other matters which are a little legalistic, arising out of the recommendations of the Subordinate Legislation Committee. In this case of composition, a dealer whose turnover is fifty thousand rupees need not pay more than Rs. 540 even though he might have collected more money by way of tax from purchasers. Of course, I welcome this provision which is based on the assurance that the Hon. Minister gave earlier. But I have this doubt. Suppose a man dealing in radios has a turnover of four thousand rupees a month. Radios are subject to a high single-point levy—7 per cent or so. So, that man collects a tax of Rs. 280 from his customers. Is it enough that in spite of his huge collections of tax he pays every year Rs. 540? According to this provision, as I understand it, he can pocket Rs. 240 and hand over Rs. 40 to the Government. Let us suppose that either myself or Mr. Seshachariar deals in such articles. We will certainly collect tax at the rate of six or seven per cent. If we hand over only Rs. 540 to Government at the year end, will that be correct? That is my doubt and the Hon. Minister may clarify it. He is an all-India expert on matters of sales tax. He is so well-versed that every State in India would do well to invite him to advise them on sales tax. They will certainly benefit from his advice. That is a compliment which he deserved. Sir, when there was an agitation some time ago by merchant opposing single-point levy on certain goods and multi-point levy on others, he gave an assurance that after working the Act for some time, he would find out the difficulties and hardships or the merchants and try to remove them. It is in that view that the Government provided for any decision that they might take to be announced first and then to be brought before the Legislature for ratification, subsequently. The other day he made an important pronouncement in the Lower House that having regard to the representation made by various businessmen dealing in bottles he was shifting the tax from single-point to multi-point. In fairness he ought to have announced it in this House also.

SRI K. BALASUBRAMANYA AYYAR : That is not relevant here.

[29th March 1961]

SRI MOHAMED RAZA KHAN: Let him say whether it is relevant or not. Why should we say it? It is parliamentary procedure to announce any important decision in the Houses of Legislature when the yare in session. Of course, we followed his announcement in newspapers. In this connection, I wish to point out one thing. He told the merchants: 'Here is single point and here is multi-point; choose anything.' But the margin is so nicely arranged that they could not find out which was more advantageous, and later on they started crying. It must be said to the credit of the Hon. Minister and the Government that on account of increasing tempo of activities, sales tax returns are increasing year by year.

Sir, the casual dealer has now been defined properly. But how are the Government going to find a way of catching him? In the City of Madras many such dealers do business worth lakhs of rupees every day. How is the Board or the sales tax officers going to locate them? There is a widespread feeling that evasion is there. The tendency of people is to evade tax. Human nature being what it is, we cannot avoid it.

Then, Sir, let me refer to one more matter and conclude. I have been repeating it many times here in the hope that there will be some chance of acceptance of the suggestion by the Government if I go on repeating it. About the levy of sales tax on hides and skins, my esteemed Friend, Mr. Patanjali Sastri said on a former occasion that whatever was exported from the City of Madras was an exportable commodity for purposes of earning foreign exchange. The leather industry is something 'exclusive' for Madras. He asked whether such a thing could be brought within the purview of the Sales Tax Act. But nobody has devoted attention to this aspect. The Hon. Minister took pains to point out that if it was so, the parties could go to courts. Sir, there have been many decisions of courts against the Government but they are not worried about those decisions. They are not worried about Acts being set aside by the High Court and the Supreme Court. But the point I want to make is this. For the last ten or fifteen years, on a wrong interpretation of the sales tax rules, certain businessmen thought that they were not bound to pay tax and the departmental officers also thought so. But when they were suddenly told that tax was due from them, they had to face lot of difficulties and many of them had to close down their business. Last time, when another Amendment Bill came before the House, the Hon. Leader of the House said that they had the facility to pay in instalments. Their position is such that they are not able to pay anything, on account of several other factors like labour trouble and so on. I know of an instance where a businessman went to the Secretary of the Board of Revenue and cried: 'I have lost everything; the department demands Rs. 60,000 from me'. Once he was the biggest businessman. Then he had to sell away his house and had only Rs. 100 left in the bank, and that for foreign references. If he had any chance of revival, he could refer his future buyers to that bank.



29th March 1961] [Sri Mohamed Raza Khan]

It was for that purpose he was keeping that one hundred rupees. But the department said: 'We will attach even that under the law'. It is here that great difficulties arise. The Government should consider this aspect of the question. The Hon. the Minister for Industries who is particularly interested in the development of industries should pay some attention to this. 'It does not matter even if some money is lost', said the Hon. Minister the other day, 'but we should liberally help the small industries to come up'. That is the principle on which the Government now proceeds in promoting industries. Therefore before insisting on recovering the arrears, the Government should have considered whether they would be in a position to pay it. If they are in a position to pay, well and good, the Government can proceed to realise the arrears. But if they are not in a position to pay them even in instalments there is no point in persisting to produced against them for recovery.

11-40  
a.m.

Sir, though this point is not directly relevant to the Bill under consideration, I submit these are the occasions when we can bring the difficulty of the trade to the notice of the Government.

Thank you, Sir.

\* SRI M. PATANJALI SASTRI: Mr. Chairman, Sir some time ago I made a remark about legislation in the two Houses being rather hurried. I now find that this amending Bill brought forward by the Hon. Minister for Industries illustrates my remark and adds point to it. I happened to be a member of the Committee on Subordinate Legislation. The Committee found that many of the rules made by the Government in pursuance of the various provisions of the Act were very good and relevant and should indeed be supported. But we felt that there were no corresponding provisions in the Act authorising the framing of such rules on various matters, to which the rules related. Therefore we were constrained to hold that these rules were *ultra vires*. In fact as the Hon. Minister was reading his notes on the various clauses, we found there were repeated references to the recommendations of the Committee on Subordinate Legislation holding the various rules *ultra vires* because corresponding authorizing provisions were not incorporated in the Act.

In this connection I might clear the doubt of the hon. the Deputy Leader of the Opposition. The Committee on Subordinate Legislation was not concerned with the policy of the Act or with the policy of the rules. We were concerned merely to see whether the rules made were in consonance with the terms of the Act or whether they contravened or did not contravene any of the provisions of the Act. Therefore from that point of view we were constrained to hold certain wholesome rules made under the Act by the Government as *ultra vires*. Later on after they had time to think out the various aspects of the legislation they made they framed very good rules but unfortunately there were no corresponding provisions in the Act and therefore the rules could not be held

[Sri M. Patanjali Sastri] [29th March 1961]

to be *intra vires*. That illustrates, notwithstanding the fact that much compliment was paid by the hon. Member Sri Raza Khan to the Mover of the Bill that he is an expert in sales tax—that is no fault of his—the fact that he must have the time to scrutinise the various provisions and aspects and come out with a Bill which contains all the appropriate provisions to cover all possible contingencies. If we work at high pressure, no doubt, even experts go wrong. Therefore this amending Bill adds point to my remarks about legislation in the two Houses being rather hurried. That is my general remark.

Then, Sir, about the amending Bill, it appears to me when I read the definition of the Assistant Commercial Tax Officer, that it is not correctly worded. Again I may point out that we said in the Committee on Subordinate Legislation that rules cannot add definitions to the various provisions in definition section of the Act. They should be transported, if at all, to the body of the Act. The Bill says: 'Assistant Commercial Tax Officer' means any person appointed by the Deputy Commissioner by name or by virtue of the office, to exercise the powers of an 'Assistant Commercial Tax Officer'. Perhaps the Hon. Minister will consider the addition of the words 'for the time being' after the words 'Assistant Commercial Tax Officer' in the definition. If once a person is appointed by name or by virtue of his office, he will continue for ever to be the Assistant Commercial Tax Officer. The Government can appoint any officer as Assistant Commercial Tax Officer and they may want to change the person also. But according to the definition now given, Assistant Commercial Tax Officer means any person appointed by the Deputy Commissioner by name or by virtue of the office. Therefore he will continue for ever, till his death. That ought not to be the provision. Then the definition says 'by virtue of office'. Supposing a Tahsildar is appointed as Assistant Commercial Tax Officer he will continue for ever. Supposing the Government want later on to post some other officer as Assistant Commercial Tax Officer, they cannot do it. The Tahsildar would continue as the Assistant Commercial Tax Officer and that would lead to untoward consequences. If the Government want to change it, then an amending Bill may be rendered necessary. Therefore I would suggest for the consideration of the Hon. Minister the addition of the words 'for the time being' after words 'any person'.

Thank you, Sir.

\* THE HON. SRI R. VENKATARAMAN : Mr. Chairman, Sir, with regard to the point raised by the hon. Member Sri Balasubramanya Ayyar about the petty dealers who buy goods from the dealers who come from outside and deal with them, they will be governed by the taxing provisions of the Act, that is to say, if they have transaction over Rs. 10,000 then they will be liable to tax. Otherwise not. Therefore there will be no difficulty caused to them.



29th March 1961] [Sri R. Venkataraman]

Then, Sir, regarding the point raised by the hon. Member Sri Raza Khan, whether a person liable to single point tax can collect tax and pay only the compounded amount, we can take care to see that he cannot do that. Section 7 applies only to those cases in which the multi-point tax is collected. The subsequent section deals with single point tax. Therefore he cannot escape responsibility.

SRI MOHAMED RAZA KHAN : On a point of explanation, Sir. May I therefore take it that business men doing business in articles bearing single point tax will not come under the operation of the particular provision?

THE HON. SRI R. VENKATARAMAN : The very principle of single point taxation is that in respect of single point tax, he must pay the Tax separately.

Then, Sir, with regard to the notification about concessions made, I wish to submit to the House that the notification will be issued on 1st April 1961. A copy of the notification will also be placed on the table of the House.

The hon. Member Sri Raza Khan also mentioned one particular case he had in mind. Short of waiving the tax we have done everything in this case. I am sure the hon. Member will have no complaint about it. I do not also want to refer to the person by name.

I may also say that the courts have not set aside any of the provisions of this Act, in the cases that have so far arisen. I think this is one of the Acts which was very carefully planned and prepared and actually this criticism of hurried legislation would not apply to this particular legislation. It was in the stage of preparation for one year and before the Joint Select Committee for another year. We had several sittings of the Joint Select Committee. The point raised was this. At the time when we framed this Act, by virtue of experience in the past of the 1939 Act under which certain rules were framed and they were accepted without question—they were not set aside by the courts on the ground that they were *ultra vires*—they thought that the same rules can continue under the new Act. But since the Committee on Subordinate Legislation recommended that it is better to have it in the main Act, we have accepted that recommendation and we are now putting them in the Act itself. It is not because we had not time for detailed scrutiny of the various provisions of the Act, but because we thought since the rules made under the 1939 Act were held valid and not questioned in a court of law, they would continue to be valid even under the present legislation.

SRI M. PATANJALI SASTRI : I am not casting any reflection on anybody. I was only suggesting that if there was more of time, the Act would have been more perfect.

[29th March 1961]

THE HON. SRI R. VENKATARAMAN : That is what I am also explaining. Our understanding was based on the previous legislation on the subject and previous legislative experience that these rules might very well go as rules. But since the Committee on Subordinate Legislation recommended, we agreed with many of the points stated therein. For instance, I may refer to transfer of an appeal from one Assistant Commissioner to another. In the rules under the original Act we had similar provisions and nobody questioned it. Still when we examined it from the point of view of propriety of legislation, we had to accept the recommendation of the Committee on Subordinate Legislation, and we said that it should be incorporated in the Act.

12-00  
noon.

Then with regard to the appointment mentioned by Sri Patanjali Sastri, the notification by which a person is appointed by name or by virtue of his office can be cancelled and then he will cease to hold office. That is why we have not stated, 'for the time being'. The moment another officer who is designated as the Assistant Commercial Tax Officer to perform some particular functions ceases to perform those functions or is not required to perform those functions, we will issue a notification cancelling the appointment. There is no question whether the appointment will be valid, because the Act provides that he can be appointed by a notification and once the notification is withdrawn and cancelled, he will cease to be an Assistant Commercial Tax Officer. The power to appoint by notification includes the power to cancel the notification. Therefore, Sir, I request that the Bill be taken into consideration.

MR. CHAIRMAN : The question is :—

'That the Madras General Sales Tax (Second Amendment) Bill, 1961 (L.A. Bill No. 15 of 1961), as passed by the Legislative Assembly, be taken into consideration.'

The motion was put and carried and the Bill was taken into consideration.

Clauses 2 to 14 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI R. VENKATARAMAN : Sir, I move—

'That the Madras General Sales Tax (Second Amendment) Bill, 1961 (L.A. Bill No. 15 of 1961), as passed by the Legislative Assembly, be passed.'

MR. CHAIRMAN : The question is—

'That the Madras General Sales Tax (Second Amendment) Bill, 1961 (L.A. Bill No. 15 of 1961), as passed by the Legislative Assembly, be passed.'

The motion was put and carried and the Bill was passed.



29th March 1961]

(4) THE MADRAS (ADDED TERRITORY) EXTENSION OF LAWS BILL  
(L.A. BILL NO. 16 OF 1961).

\* THE HON. SRI R. VENKATARAMAN : Mr. Chairman, Sir,  
I move—

‘ That the Madras (Added Territory) Extension of Laws Bill <sup>a</sup>, 1961 L.A. Bill No. 16 of 1961), as passed by the Legislative Assembly, be taken into consideration.’

Certain areas have been transferred from the State of Andhra Pradesh to this State with effect from 1st April 1960, by virtue of section 45 of the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959. The laws in force in the State of Andhra Pradesh continue to be in force in the territories transferred from that State to this State. Thus in the State of Madras there are in force two sets of laws for the levy and collection of sales tax, viz., the Andhra Pradesh General Sales Tax Act, 1957, in the transferred territories, and the Madras General Sales Act, 1959, in the rest of this State. This has resulted in certain difficulties in the administration of the two sets of laws. It is considered desirable to have a uniform law on the subject applicable to the whole State. It has accordingly been decided to extend with effect from the 1st April 1961, (so as to coincide with the commencement of the financial year 1960–61), the Madras General Sales Tax Act, 1959, as in force in the rest of this State, to the transferred territories and to repeal the corresponding law in force in these territories. The opportunity is taken to extend to the transferred territories, the Madras Sales of Motor Spirit Taxation Act, 1939 and the Madras Entertainments Tax Act, 1939, also with effect from 1st April, 1961, and to repeal the corresponding laws in force in those territories. The salient features of the Bill are the following :—

With a view to giving relief to stocks of commodities held on 31st March 1961 by dealers in the added territories and which have suffered tax under the Andhra Pradesh General Sales Tax Act, provision has been made in clause 9 of the Bill to the effect that where any goods specified in Schedule I or Schedule II or Schedule III to the Andhra Pradesh General Sales Tax Act, 1957 which are held in stock by a dealer in the added territory on the date of commencement of the Act, has suffered tax under the Andhra Act, such goods shall not be taxed again under Madras General Sales Tax Act, 1959, on its extension. The intention of the clause is that goods which are liable to single point tax or single point tax in addition to general multipoint levy under the Andhra Pradesh Act, if they have suffered tax under that Act, they should not be taxed again under the Madras General Sales Tax Act.

Provision has been made in clause 10 of the Bill requiring registered dealers in the added territories to declare stocks of goods held by them on the date of commencement of the new Act.

[Sri R. Venkataraman] [29th March 1961]

Failure to furnish particulars regarding stocks of goods held by a dealer is made an offence punishable with fine which may extend to Rs. 500. A time-limit of 7 days has been laid down for declaring the stocks.

Clause 11 of the Bill provides for the levy of tax at the rate specified in section 3 of the Madras Sales of Motor Spirit Taxation Act, 1939 on the stocks of motor spirit held by a retail dealer in the transferred territory at the date of commencement of the new Act because under the Andhra Act tax is levied on retail sales while under the Madras Act tax is levied only on sales by wholesalers and importers.

Clause 4 of the Bill provides for the repeal of the laws corresponding to the Madras Sales of Motor Spirit Taxation Act, 1939, the Madras Entertainment Tax Act, 1939 and the Madras General Sales Tax Act, 1959, in force in the transferred territory. clause 5 makes certain saving provisions. According to sub-clause (1) of that clause the repeal of the corresponding laws shall not affect any right, privilege, obligation or liability acquired, accrued, or incurred under the repealed law, and any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability, etc., may be instituted, continued or enforced as if the new legislation had not been passed.

I request that the Bill be taken into consideration.

MR. CHAIRMAN: The question is:

'That the Madras (Added Territory) Extension of Laws Bill, 1961 (L.A. Bill No. 16 of 1961), as passed by the Legislative Assembly, be taken into consideration.'

The motion was put and carried and the Bill was taken into consideration.

Clauses 2 to 12 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI R. VENKATARAMAN: Sir, I move—

'That the Madras (Added Territory) Extension of Laws Bill, 1961 (L.A. Bill No. 16 of 1961), as passed by the Legislative Assembly, be passed.'

MR. CHAIRMAN: The question is:

'That the Madras (Added Territory) Extension of Laws Bill, 1961 (L.A. Bill No. 16 of 1961), as passed by the Legislative Assembly, be passed.'

The motion was put and carried and the Bill was passed.



29th. March. 1961]

(5) THE MADRAS AGRICULTURAL INCOME-TAX (EXTENSION TO ADDED TERRITORY) BILL, 1961 (L.A. BILL NO. 23 OF 1961).

\* THE HON. SRI M. A. MANICKAVELU : Sir, I move—

‘ That the Madras Agricultural Income-tax (Extension to Added Territory) Bill\* 1961 (L.A. Bill No. 23 of 1961), as passed by the Legislative Assembly, be taken into consideration ’.

Sir, the Madras Agricultural Income-tax Act, 1955 (Madras Act V of 1955), provides for the levy of a tax on agricultural income from land and is in force in this State except the Kanyakumar district and the Shencottah taluk of the Tirunelveli district. In the Kanyakumari district and Shencottah taluk of Tirunelveli district, the Travancore-Cochin Agricultural Income-tax Act is in force. In the territories transferred to the Madras State by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959), the Andhra Pradesh Surcharge Act, 1957 is in force. In order that there may be uniformity, it has been decided to extend the Madras Agricultural Income-tax Act, 1955 (Madras Act V of 1955) to the territories transferred to this State by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959), and repeal the Andhra Pradesh Surcharge Act, 1957. The point for consideration is this. Now, new territory from Andhra Pradesh—Tiruttani and other areas—has been added to the Madras State. As it is, the Surcharge Act of the Andhra Pradesh Government is in force there. We have got the Additional Surcharge Act, and that will expire after three or four months. We thought of extending it, but we have dropped that idea now. The proposal here is to repeal the Surcharge Act of Andhra Pradesh Government and in its place bring in this Agricultural Income-tax Act to the extent that it is prevalent all over the Madras State. Because it is a new territory that has been added to this State, this Act is not in force there. We are just extending this Act to that new territory. This is all that the Bill seeks to do. I request the House to accept the motion.

MR. CHAIRMAN : The question is :

‘ That the Madras Agricultural Income-tax (Extension to Added Territory) Bill, 1961 (L.A. No. 23 of 1961), as passed by the Legislative Assembly, be taken into consideration ’.

The motion was put and carried and the Bill was taken into consideration.

Clauses 2 to 15 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI M. A. MANICKAVELU : Sir, I move—

‘ That the Madras Agricultural Income-tax (Extension to Added Territory) Bill, 1961 (L.A. No. 23 of 1961) as passed by the Legislative Assembly, be passed.’

[29th March 1961]

MR. CHAIRMAN : The question is—

‘ That the Madras Agricultural Income-tax (Extension to Added Territory) Bill, 1961 (L.A. Bill No. 23 of 1961), as passed by the Legislative Assembly, be passed.’

The motion was put and carried and the Bill was passed.

MR. CHAIRMAN : The House will now adjourn and meet again at 3 p.m. on Saturday, the 1st April 1961.

The House then adjourned.

#### IV.—PAPERS LAID ON THE TABLE OF THE HOUSE.

\* 259. *Review of the progress made in the Co-operative Development Schemes during 1960–61.*

\* 260. *Review of progress made during the Second Plan period and programme for the Third Plan on handloom schemes.*

\* 261 *Notification issued by the Collector of North Arcot directing the removal of the President, Ariyur Panchayat. Vellore taluk from the office of the President of the said Panchayat with effect from 30th November 1960.*

\* 262 *Notification issued with G.O. No. 271, Revenue, dated 18th January 1961 under the Madras Estates Abolition and Conversion in to Ryotwari Act, 1948.*

† 263. *Notification issued with G.O. Ms. No. 139, Local Administration, dated 18th January 1961, regarding amendment to Rule 4 of the Rules for the payment of travelling allowance to members of District Development Councils and their Standing Committees.*

*Bills passed by the Assembly and received there from in the Council :—*

‡ 1. *The Madras Agricultural Income-tax (Amendment) Bill, 1961 (L.A. Bill No. 12 of 1961).*

§ 2. *The Madras Wakf (Supplementary) Bill, 1961 (L.A. Bill No. 10 of 1961).*

§ 3. *The Madras General Sales Tax (Second Amendment) Bill, 1961 (L.A. Bill No. 15 of 1961)*

§ 4. *The Madras (Added Territory) Extension of Laws Bill, 1961 (L.A. Bill No. 16 of 1961).*

\* Laid on the table of the House on 27th March 1961.

† Laid on the table of the House on 28th March 1961.

‡ Sent by Special messengers to all M.L.C's on 25th March 1961.

§ Sent by Special messengers to all M.L.C's on 28th March 1961.



29th March 1961]

# APPENDIX I.

[Vide item III (1) on page 102 supra.]

## L.A. BILL No 10 OF 1961.

(As passed by the Assembly.)

*A Bill for extending the operation of the Wakf Act, 1954, to any wakf created by a person professing any religion other than Islam, in the State of Madras.*

WHEREAS it is expedient to extend the operation of the Wakf Act, 1954 (Central Act 29 of 1954), to any wakf created by a person professing any religion other than Islam, in the State of Madras; BE it enacted in the Twelfth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Wakf (Supplementary) Act, 1961.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. *The term "wakf" in Central Act 29 of 1954 to include endowment.*—The term "wakf" defined in clause (l) of section 3 of the Wakf Act, 1954 (Central Act 29 of 1954) (hereinafter referred to as the said Act), shall include all property given or endowed by any person professing any religion other than Islam for the support of—

(i) mosques, idgahs, imambaras, dargahs, khangahs or maqbaras;

(ii) graveyards of persons professing Islam; and

(iii) choultries for, or musafarkhanas for, the benefit of persons professing Islam; and the term "wakf" defined in the clause aforesaid shall include any person aforesaid.

3. *Application of Central Act 29 of 1954.*—All the provisions of the said Act except section 62 shall apply to the property included by this Act in the definition of the term "wakf" in the said Act as they apply to the wakfs governed by the said Act.

4. *Validation of survey of wakfs.*—(1) Any survey of properties included by this Act in the definition of the term "wakf" in the said Act, made before the date of the commencement of this Act by the Commissioner of Wakfs or Additional or Assistant Commissioner of Wakfs appointed under section 4 of the said Act, shall be deemed to have been made in accordance with the provisions of the said Act as if this Act was in force at the time such survey was made :

Provided that nothing contained in this section shall extend, or be construed to extend, to affect any person with any punishment or penalty whatsoever by reason of non-compliance before the

[29th March 1961]

date of the commencement of this Act with any order or notice issued in respect of such properties by the Commissioner of Wakfs, Additional or Assistant Commissioner of Wakfs aforesaid or by the Board of Wakfs established under the said Act.

(2) The provisions of section 7 of the said Act shall apply to such survey of properties as is referred to in sub-section (1) as those provisions apply to a survey of properties of wakf made under the said Act.

## APPENDIX II.

[Vide item III (2) on page 111 supra.]

L.A. BILL No. 12 OF 1961.

(As passed by the Assembly.)

*A Bill further to amend the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958.*

WHEREAS it is expedient further to amend the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958), for the purpose hereinafter appearing;

BE it enacted in the Twelfth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Madras Agricultural Income-tax (Amendment) Act, 1961.

(2) It shall come into force on the 1st April 1961.

2. *Amendment of section 34, Madras Act XXIX of 1958.*—In section 34 of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958—

(i) in the heading, for the words and figures “ the years 1957-58, 1958-59 and 1959-60 ”, the words and figures “ the years 1957-58, 1958-59, 1959-60 and 1960-61 ” shall be substituted;

(ii) in sub-section (1), after the words, figures and letters “ or on the 31st day of March 1960 ”, the words, figures and letters “ or on the 31st day of March 1961 ” shall be inserted.

## APPENDIX III.

[Vide item III (3) on page 112 supra.]

L.A. BILL No. 15 OF 1961.

(As passed by the Assembly.)

*A Bill further to amend the Madras General Sales Tax Act, 1959.*

WHEREAS it is expedient further to amend the Madras General Sales Tax Act, 1959 (Madras Act I of 1959), for the purposes hereinafter appearing;



26th March 1961]

Be it enacted in the Twelfth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Madras General Sales Tax (Second Amendment) Act, 1961.

(2) It shall come into force on the 1st April 1961.

2. *Amendment of section 2, Madras Act I of 1959.*—In section 2 of the Madras General Sales Tax Act, 1959 (Madras Act I of 1959) (hereinafter referred to as the principal Act),—

(i) after clause (c), the following clause shall be inserted, namely:—

“(cc) ‘Assistant Commercial Tax Officer’ means any person appointed by the Deputy Commissioner by name or by virtue of his office, to exercise the powers of an Assistant Commercial Tax Officer;”;

(ii) for clause (e), the following clause shall be substituted, namely:—

“(e) ‘casual trader’ means a person who has, whether as principal, agent, or in any other capacity, occasional transactions of a business nature involving the buying, selling, supply or distribution of goods in the State, whether for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, and who does not reside or has no fixed place of business within the State;”.

3. *Amendment of section 7, Madras Act I of 1959.*—In section 7 of the principal Act—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in sub-section (1) of section 3, every dealer whose total turnover is not less than ten thousand rupees, but not more than fifty thousand rupees, may at his option instead of paying the tax in accordance with the provisions of that sub-section pay tax at the following rates, namely:—

*Rate of tax.*

- |                                                                                                                       |                                           |
|-----------------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| (i) Where the total turnover is not less than ten thousand rupees, but is less than fifteen thousand rupees.          | One hundred and twenty rupees per annum.  |
| (ii) Where the total turnover is not less than fifteen thousand rupees, but is less than twenty thousand rupees.      | One hundred and eighty rupees per annum.  |
| (iii) Where the total turnover is not less than twenty thousand rupees, but is less than twenty-five thousand rupees. | Two hundred and forty rupees per annum.   |
| (iv) Where the total turnover is not less than twenty five thousand rupees, but is less than thirty thousand rupees.  | Three hundred rupees per annum.           |
| (v) Where the total turnover is not less than thirty thousand rupees, but is less than thirty-five thousand rupees.   | Three hundred and sixty rupees per annum. |

[29th March 1961]

*Rate of tax.*

- |                                                                                                                          |                                           |
|--------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| (vi) Where the total turnover is not less than thirty-five thousand rupees but is less than forty thousand rupees.       | Four hundred and twenty rupees per annum. |
| (vii) Where the total turnover is not less than forty thousand rupees, but is less than forty-five thousand rupees.      | Four hundred and eighty rupees per annum. |
| (viii) Where the total turnover is not less than forty-five thousand rupees, but is not more than fifty thousand rupees. | Five hundred and forty rupees per annum." |

(ii) in sub-section (2), for the words "twenty-five thousand rupees," the words "fifty thousand rupees" shall be substituted.

4. *Amendment of section 13, Madras Act I of 1959.*—In section 13 of the principal Act, for sub-section (2) and the proviso thereto, the following sub-section and proviso shall be substituted, namely:—

"(2) If no return is submitted by the dealer under sub-section (1) within the prescribed period, or if the return submitted by him appears to the assessing authority to be incomplete or incorrect, the assessing authority may, after making such enquiry as it may consider necessary, assess the dealer to the best of its judgment:

Provided that, before taking action under this sub-section on the ground that the return submitted by the dealer is incomplete or incorrect, the dealer shall be given a reasonable opportunity of proving the correctness or completeness of the return submitted by him."

5. *Amendment of section 21, Madras Act I of 1959.*—In section 21 of the principal Act—

(i) in sub-section (2), the words "specifying all the places of business" shall be added at the end;

(ii) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(3-A) A registered dealer may apply to the prescribed authority for a copy or copies of the registration certificate along with a fee of five rupees for each copy and, if the prescribed authority is satisfied that the application is in order, it shall issue to the registered dealer a copy or copies of the registration certificate.

(3-B) If the prescribed authority is satisfied that a registration certificate or a copy thereof is lost or accidentally destroyed, it shall, on an application by the registered dealer accompanied by a fee of one rupee, issue to him a duplicate of the registration certificate.



29th March 1961]

(3-C) A registered dealer shall exhibit at each place of his business the registration certificate, or a duplicate or a copy thereof.”;

(iii) in sub-section (4), for the words, figures and brackets “A dealer registered under sub-section (1) of section 20”, the words “A registered dealer” shall be substituted; and

(iv) in sub-section (6), for the words “No application for registration”, the words “No application for registration or for a copy or duplicate of the certificate” shall be substituted.

6. *Amendment of section 21-A, Madras Act I of 1959.*—In section 21-A of the principal Act—

(i) after sub-section (6), the following sub-section shall be inserted, namely :—

“(6-A) If the prescribed authority is satisfied that the permit issued under sub-section (5) is lost or accidentally destroyed, it shall, on application by the registered dealer accompanied by a fee of one rupee, issue to him a duplicate of the permit.”;

(ii) for sub-section (9), the following sub-section shall be substituted, namely :—

“(9) No application for a permit or for a duplicate thereof shall be refused and no permit shall be cancelled under clause (b) of sub-section (7) unless the registered dealer has been given a reasonable opportunity of being heard and no permit shall be cancelled under sub-section (8) unless the permit holder has been given a reasonable opportunity of being heard.”.

7. *Amendment of section 31, Madras Act I of 1959.*—In the opening paragraph of sub-section (1) of section 31 of the principal Act, after the words “Appellate Assistant Commissioner”, the words “having jurisdiction” shall be added.

8. *Insertion of section 34-A in Madras Act I of 1959.*—After section 34 of the principal Act, the following section shall be inserted, namely :—

“34-A. *Power to transfer appeals.*—(1) The Board of Revenue may, either *suo motu* or on application, for reasons to be recorded in writing, transfer an appeal pending before an Appellate Assistant Commissioner to another Appellate Assistant Commissioner.

(2) The Board of Revenue may, when exercising the powers under sub-section (1), direct the stay of further proceedings before an Appellate Assistant Commissioner.

(3) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.”.

[29th March 1961]

9. *Amendment of section 36, Madras Act I of 1959.*—In section 36 of the principal Act, for sub-section (9), the following sub-section shall be substituted, namely :—

“(9) Every order passed by the Appellate Tribunal under sub-section (3) shall, subject to the provisions of sub-section (6) and section 38, be final”.

10. *Amendment of section 38, Madras Act I of 1959.*—In section 38 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Within sixty days from the date on which a copy of the order under sub-section (3) of section 36 is served in the manner prescribed, any person who objects to such order or the Deputy Commissioner may prefer a petition to the High Court on the ground that the Appellate Tribunal has either decided erroneously or failed to decide any question of law :

Provided that the High Court may admit a petition preferred after the period of sixty days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within the said period”.

11. *Amendment of section 41, Madras Act I of 1959.*—In section 41 of the principal Act, after the proviso to sub-section (4), the following further proviso shall be inserted, namely :—

“Provided further that the officer ordering the confiscation shall give the person affected option to pay in lieu of confiscation—

(a) in cases where the goods are taxable under this Act, in addition to the tax recoverable, a sum of money not exceeding one thousand rupees or double the amount of tax recoverable, whichever is greater; and

(b) in other cases, a sum of money not exceeding one thousand rupees”.

12. *Amendment of section 42, Madras Act I of 1959.*—In section 42 of the principal Act, after the proviso to sub-section (3), the following further proviso shall be added, namely :—

“Provided further that the officer ordering the confiscation shall give the person affected option to pay in lieu of confiscation—

(a) in cases where the goods are taxable under this Act, in addition to the tax recoverable, a sum of money not exceeding one thousand rupees or double the amount of tax recoverable, whichever is greater; and

(b) in other cases, a sum of money not exceeding one thousand rupees”.



29th March 1961]

13. *Amendment of section 53, Madras Act I of 1959.*—In section 53 of the principal Act, for sub-sections (4) and (5), the following sub-sections shall be substituted, namely :—

“(4) (a) All rules made under this Act shall be published in the *Fort St. George Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(5) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification”.

14. *Amendment of the First Schedule, Madras Act I of 1959.*—In the First Schedule to the principal Act, in item 38, for the word “tandon”, the word “tandem” shall be substituted.

#### APPENDIX IV.

[Vide item III (4) on page 123 *supra*.]

#### L.A. BILL No. 16 OF 1961.

(As passed by the Assembly.)

*A Bill to extend certain laws to the added territory in the State of Madras.*

WHEREAS it is expedient to provide that certain laws should be extended to, and by virtue of such extension should be in force in, the added territory in the State of Madras;

BE it enacted in the Twelfth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Madras (Added Territory) Extension of Laws Act, 1961.

(2) It shall come into force on the 1st April 1961.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “added territory” means the territory transferred to the State of Madras by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959);

[29th March 1961]

(b) "existing law" means any law, Ordinance, Proclamation, regulation, order, by-law or rule passed or made before the date of the commencement of this Act by Parliament, or by any Legislature, authority or person having power to make such a law, Ordinance, Proclamation, regulation, order, by-law or rule;

(c) the expression "registered dealer" means a dealer registered or deemed to have been registered under the Madras General Sales Tax Act, 1959 (Madras Act I of 1959), and includes a retail dealer registered or deemed to have been registered under the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939).

3. *Extension of Madras Acts VI of 1939, X of 1939 and I of 1959 to the added territory.*—The Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), the Madras Entertainments Tax Act, 1939 (Madras Act X of 1939), and the Madras General Sales Tax Act, 1959 (Madras Act I of 1959), and any rule, by-law, order, notification or other instrument having the force of law made thereunder (hereinafter referred to as the Madras law) and in force on the date of the commencement of this Act in the State of Madras except in the added territory are hereby extended to, and shall be in force in, the added territory.

4. *Repeal of corresponding laws.*—If, immediately before the date of the commencement of this Act, there is in force in the added territory any law corresponding to the Madras law whether such corresponding law is in force by virtue of section 45 of the Andhra Pradesh and Madras (Alteration of Boundaries Act), 1959 (Central Act 56 of 1959), or by virtue of any other legislative power, such corresponding law shall, on the date of the commencement of this Act, stand repealed to the extent to which the corresponding law relates to matters with respect to which the State Legislature has power to make laws for the State.

5. *Savings.*—(1) The repeal by section 4 of any corresponding existing law shall not affect—

(a) the previous operation of any such law or anything done or duly suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any such law, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.



29th March 1961]

(2) Subject to the provisions of sub-section (1), anything done or any action taken including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, form, by-law or scheme framed, certificate, permit or licence granted or registration effected under such corresponding existing law shall be deemed to have been done or taken under the corresponding provision of the Madras law as now extended to, and in force in, the added territory and shall continue in force accordingly, unless and until superseded by anything done or any action taken under the said **Madras law**.

6. *Construction of references to laws not in force in the added territory.*—(1) Any reference in the Madras law to a law which is not in force in the added territory shall, in relation to that territory, be construed as a reference to the corresponding law, if any, in force in that territory.

(2) Any reference in any existing law which continues to be in force in the added territory after the date of the commencement of this Act, to any law repealed by section 4 shall, in relation to that territory, be construed as a reference to the Madras law corresponding to the law so repealed.

7. *Construction of references to authorities where new authorities have been constituted.*—Any reference, by whatever form of words, in any existing law to any authority competent at the date of the passing of that law to exercise any powers or discharge any functions in the added territory shall, where a corresponding new authority has been constituted by or under any Madras law now extended to the added territory, have effect as if it were a reference to that new authority.

8. *Powers of courts and other authorities for purposes of facilitating application of laws.*—For the purpose of facilitating the application in the added territory of any Madras law, any court or other authority may construe such law with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court or other authority.

9. *Exemption of goods already taxed under Andhra Pradesh Act VI of 1957.*—(1) Where any goods specified in Schedule I or Schedule II or Schedule III to the Andhra Pradesh General Sales Tax Act, 1957 (Andhra Pradesh Act VI of 1957) which are held in stock by a dealer in the added territory on the date of the commencement of this Act, has been assessed to tax under the said Act, such goods shall not be liable to be taxed again under the Madras General Sales Tax Act, 1959 (Madras Act I of 1959).

(2) The burden of proving that any goods referred to in sub-section (1) has suffered tax under the Andhra Pradesh General Sales Tax Act, 1957 (Andhra Pradesh Act VI of 1957), shall be on the dealer who claims the exemption under sub-section (1).

[29th March 1961]

10. *Registered dealers in added territory to declare stocks of goods held by them.*—(1) Every registered dealer in the added territory shall, in respect of any goods or class of goods which the State Government may by notification in this behalf specify, within seven days from the date of such notification, furnish to the assessing authority concerned a return in such form and containing such particulars as may be specified in the said notification, declaring the stocks of such goods or class of goods held by him on the date of the commencement of this Act.

(2) If any registered dealer fails to furnish the return which he is required to furnish under sub-section (1) or wilfully makes any false statement therein, he shall be punishable with fine which may extend to five hundred rupees.

11. *Levy of tax on motor-spirit held by a retail dealer.*—(1) Notwithstanding anything contained in the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), as extended to, and in force in, the added territory, there shall be levied on the stocks of motor-spirit held by a retail dealer in the said territory on the date of the commencement of this Act, a tax at the rate specified in section 3 of the said Act :

Provided that no tax shall be levied under this section on the stocks of motor-spirit held by such dealer on such date if in respect of such stocks tax has already been paid under the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939).

(2) The burden of proving that tax under the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), has already been paid in respect of any stock of motor-spirit held by a retail dealer on the date of the commencement of this Act shall be on such retail dealer.

12. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act or of any Madras law as extended to the added territory by this Act, the State Government as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(2) Every order issued under sub-section (1) shall, as soon as possible after it is issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such order or both Houses agree that the order should not be issued, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.



29th March 1961]

# APPENDIX V.

[Vide item III (5) on page 125 supra.]

L. A. BILL No. 23 OF 1961.

(As passed by the Assembly.)

*A Bill further to amend the Madras Agricultural Income-tax Act, 1955 and to extend that Act to the Added territory in the State of Madras.*

WHEREAS it is expedient further to amend the Madras Agricultural Income-tax Act, 1955 (Madras Act V of 1955) for the purposes hereinafter appearing and to extend that Act to the added territory in the State of Madras :

BE it enacted in the Twelfth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Madras Agricultural Income-tax (Extension to Added Territory) Act, 1961.

(2) It shall come into force on the 1st April 1961.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(a) “ added territory ” means the territory transferred to the State of Madras by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959);

(b) “ existing law ” means any law, Ordinance, Proclamation, regulation, order, by-law or rule passed or made before the 1st April 1961 by Parliament, or by any Legislature, authority or person having power to make such a law, Ordinance, Proclamation; regulation order, by-law or rule.

3. *Insertion of new section 2-A in Madras Act V of 1955.*—After section 2 of the Madras Agricultural Income-tax Act, 1955 (Madras Act V of 1955) (hereinafter referred to as the principal Act), the following section shall be inserted, namely :—

“ 2-A. *Definition of ‘ Added Territory ’.*—In this Act, unless the context otherwise requires, ‘ added territory ’ means the territory transferred to the State of Madras by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959).”

4. *Amendment of section 3, Madras Act V of 1955.*—After the proviso to sub-section (1) of section 3 of the principal Act, the following proviso shall be added, namely :—

“ Provided further that the agricultural income or any part of it derived from land in the added territory shall be subject to assessment of agricultural income-tax only from the financial year commencing from the 1st April 1961.”

[29th March 1961]

5. *Amendment of section 12, Madras Act V of 1955.*—After the second proviso to section 12 of the principal Act, the following proviso shall be added, namely :—

“ Provided also that in the case of loss sustained from land in the added territory before the 1st April 1961, this section shall apply only to such loss as was sustained in the previous year immediately before that date.”

6. *Extension of Madras Act V of 1955 to the added territory.*—The principal Act, as in force immediately before the 1st April 1961 in the State of Madras except in the Kanyakumari district and Shencottah taluk of Tirunelveli district and as amended by this Act, is hereby extended to, and shall be in force in, the added territory.

7. *Repeal of corresponding laws.*—If immediately before the 1st April 1961 there is in force in the added territory any law corresponding to the principal Act whether such corresponding law is in force by virtue of section 45 of the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959), or by virtue of any other legislative power, such corresponding law shall, on the 1st April 1961, stand repealed to the extent to which the corresponding law relates to matters with respect to which the State Legislature has power to make laws for the State.

8. *Savings.*—(1) The repeal by section 7 of any corresponding law shall not affect—

(a) the previous operation of any such law or anything done or duly suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any such law, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Subject to the provision of sub-section (1), anything done or any action taken including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, form, by-law or scheme framed, certificate, permit or licence granted or registration effected under such corresponding law shall be deemed to have been done or taken under the corresponding provision of the Principal Act as now extended to, and in force in, the added territory and shall continue in force accordingly, unless and until superseded by anything done or any action taken under the said principal Act.



29th March 1961]

9. *Construction of references to laws not in force in the added territory.*—(1) Any reference in the principal Act to a law which is not in force in the added territory shall, in relation to that territory, be construed as a reference to the corresponding law, if any, in force in that territory.

(2) Any reference in any existing law which continues to be in force in the added territory after the 1st April 1961 to any law repealed by section 7 shall, in relation to that territory, be construed as a reference to the principal Act.

10. *Construction of references to authorities where new authorities have been constituted.*—Any reference, by whatever form of words, in any existing law to any authority competent at the date of the passing of that law to exercise any powers or discharge any functions in the added territory shall, where a corresponding new authority has been constituted by or under the principal Act now extended to the added territory, have effect as if it were a reference to that new authority.

11. *Powers of courts and other authorities for purposes of facilitating application of the principal Act.*—For the purpose of facilitating the application in the added territory of the principal Act, any court or other authority may construe the said principal Act with such alterations not affecting the substance as may be necessary or proper to adopt it to the matter before the court or other authority.

12. *Repeal of Andhra Pradesh Act XX of 1957.*—The Andhra Pradesh Land Revenue (Surcharge) Act, 1957 (Andhra Pradesh Act XX of 1957), as in force in the added territory, is hereby repealed :

Provided that such repeal shall not affect the previous operation of the said Act or anything already done or suffered or any right, title or obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof.

13. *Adjustment of surcharge under Andhra Pradesh Act XX of 1957.*—Any surcharge on the land revenue collected from any person under the Andhra Pradesh Land Revenue (Surcharge) Act, 1957 (Andhra Pradesh Act XX of 1957), for the fasli year 1960-61 shall be adjusted towards the agricultural income-tax due from such person under the principal Act as extended by this Act for the financial year 1961-62; and if on such adjustment, the surcharge is in excess, such excess, or if no such adjustment be made, such surcharge, shall be refunded to the person concerned.

14. *Composition of tax for the year 1960-61.*—(1) Notwithstanding anything contained in the principal Act as extended by this Act, any person liable to pay agricultural income-tax under that Act in respect of any agricultural income derived from any land in the added territory other than the land used for growing tea, coffee, rubber, cinchona or cardamom, during the period of

[29th March 1961]

twelve months ending on the 31st day of March 1961, may apply to the prescribed officer for permission to compound such agricultural income-tax, and to pay in lieu thereof a lump sum at the rate or rates specified below :

| <i>Extent.</i>                               | <i>Rate per standard acre.</i> |
|----------------------------------------------|--------------------------------|
| (1)                                          | (2)                            |
|                                              | RS. NP.                        |
| (1) On the first 12½ standard acres .. .. .  | NIL. ■                         |
| (2) On the next 7½ standard acres .. .. .    | 4 50                           |
| (3) On the next 10 standard acres .. .. .    | 7 50                           |
| (4) On the next 10 standard acres .. .. .    | 10 00                          |
| (5) On the next 10 standard acres .. .. .    | 15 00                          |
| (6) On the next 50 standard acres .. .. .    | 17 50                          |
| (7) On the next 50 standard acres .. .. .    | 20 00                          |
| (8) On the balance of standard acres .. .. . | 25 00                          |

Provided that in the case of every company, the lump sum so payable shall be charged at the maximum rate on the whole of the total extent of the land held by that person.

(2) The Government may make rules as to the circumstances under which, and the manner in which, remission may be granted to persons permitted to compound the agricultural income-tax under sub-section (1).

(3) The provisions of sections 35 and 36 of the principal Act extended by this Act shall, so far as may be, apply in relation to the composition of agricultural income-tax under this section, as they apply in relation to the assessment of agricultural income-tax under the said principal Act.

15. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act or of the principal Act as extended to the added territory by this Act, the State Government as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(2) Every order issued under sub-section (1) shall, as soon as possible after it is issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such order or both Houses agree that the order should not be issued, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.



29th March 1961]

## FINANCIAL MEMORANDUM.

The Madras Agricultural Income-tax Act, 1955, applies to the whole of Madras State except Kanyakumari district and Shencottah taluk of Tirunelveli district, where the Travancore-Cochin Agricultural Income-tax Act is in force. The present Bill seeks to extend with effect from 1st April 1961 the provisions of the Madras Agricultural Income-tax Act, 1955, to the territories transferred from the Andhra Pradesh State. The existing set up of the Agricultural Income-tax Department will be further strengthened to attend to the work involved in administering the Act in the territories transferred from the Andhra Pradesh State. The strengthening of the existing set up of the Agricultural Income-tax Department is expected to involve an extra cost of about Rs. 10,000 per annum.

MEMORANDUM REGARDING DELEGATED  
LEGISLATION.

Clause 14 of the Bill empowers the State Government to prescribe the officer to whom the application for permission to compound the agricultural income-tax and to pay in lieu thereof a lump sum at the specified rates and also to make rules as to the circumstances in which and the manner in which remission may be granted to persons permitted to compound the agricultural income-tax. Clause 15 of the Bill empowers the State Government by order to do anything for the purpose of removing any difficulty which may arise in giving effect to the provisions of the Bill when enacted. The powers delegated are normal and not of an exceptional character.

வாய்மையே வெல்லும்  
TRUTH ALONE TRIUMPHS

